



STATUTORY INSTRUMENTS.

S.I. No. 162 of 2010



DISTRICT COURT (LAND AND CONVEYANCING LAW REFORM
ACT 2009) RULES 2010

(Prn. A10/0557)

S.I. No. 162 of 2010

DISTRICT COURT (LAND AND CONVEYANCING LAW REFORM
ACT 2009) RULES 2010

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, Equality and Law Reform, make the following rules of court.

Dated this 14th day of December 2009.

Miriam Malone Chairperson

Uinsin Mac Gruairc

Mary C Devins

Thomas E O'Donnell

Brian Sheridan

Shalom Binchy

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 19th day of April 2010.

DERMOT AHERN,

Minister for Justice, Equality and Law Reform.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 30th April, 2010.*

S.I. No. 162 of 2010

DISTRICT COURT (LAND AND CONVEYANCING LAW REFORM
ACT 2009) RULES 2010

1. These rules may be cited as the District Court (Land and Conveyancing Law Reform Act 2009) Rules 2010.
2. These rules shall come into operation on the 17th day of May 2010 and shall be construed together with the District Court Rules 1997 to 2010.
3. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended by the insertion immediately following Order 93 of the following Order:

“Order 93A

Applications under the Land and Conveyancing Law Reform Act 2009

“1. In this Order,

the “Act” means the Land and Conveyancing Law Reform Act 2009(No. 27 of 2009);

“adjoining”, “adjoining owner”, “building owner”, “party structure” and “works” each has the meaning provided for each in section 43 of the Act.

2. (1) An application to the Court for an order under section 44(4)(a)(i) of the Act by an adjoining owner for an order requiring damage to be made good shall be preceded by the issue and service by the applicant of a copy of a notice of application in the Form 93A.1, Schedule C on the building owner concerned.

(2) An application to the Court for an order under section 45(1) of the Act by a building owner for a works order shall be preceded by the issue and service by the applicant of a copy of a notice of application in the Form 93A.2, Schedule C on the adjoining owner concerned.

(3) An application to the Court under section 47 of the Act by a person affected by a works order for an order discharging or modifying a works order shall be preceded by the issue and service by the applicant of a copy of a notice of application in the Form 93A.3, Schedule C on the building owner and every adjoining owner concerned.

(4) The copy of the notice of application referred to in this Order shall be served not later than four days before the date fixed for hearing the application, and 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. An order made on such application shall be in the Form 93A.4, 93A.5 or 93A.6, Schedule C as appropriate, and the applicant shall cause a copy of the said order to be served upon the building owner and every adjoining

owner concerned, and on any other person whom the Court directs should be served with a copy of the order.

(5) Every application mentioned in this rule may be brought, heard and determined at any sitting of the court for the court area wherein the party structure to which the application relates is situated.

3. Proceedings in the Court under section 44(4)(a)(ii) or under section 44(4)(b) may be commenced by civil summons in accordance with Order 39.

4. An application to the Court for an order under section 98(2) of the Act authorising a mortgagee to take possession of property may be brought, heard and determined at any sitting of the court for the court area wherein the mortgaged property to which the application relates is situated. Such an application shall be preceded by the issue and service by the applicant on the mortgagor concerned of a copy of a notice of application in the Form 93A.7, Schedule C, which notice shall state whether any court is already seised of an application or proceedings relating to the mortgaged property. Without prejudice to the power of the Court to make an order for substituted service or to substitute notice for service, the Court may deem it sufficient service, if the mortgagor is untraceable, if a copy of the notice is affixed to, or posted at, the entrance of the property concerned. An order made on such application shall be in the Form 93A.8, and the applicant shall cause a copy of the said order to be served as directed by the Court.”

4. The Forms numbered 93A.1 to 93A.8 inclusive in Schedule 1 shall be added to the Forms in Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997).

Schedule 1

Schedule C
O. 93A, r. 2(1)

No. 93A.1

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section
44(4)(a)(i)

NOTICE OF APPLICATION FOR ORDER THAT DAMAGE BE MADE
GOOD

District Court Area of District No.

..... Applicant

..... Respondent

TAKE NOTICE that the above-named applicant, being an adjoining owner of a building or land adjoining premises or land at in the court area and district aforesaid in or on which the respondent building owner is carrying out works to a party structure, namely,, will apply to the District Court sitting at on the day of 20..... at a.m./p.m. under section 44(4)(a)(i) of the above-mentioned Act for an order against you,, the respondent, of.....(in the court area and district aforesaid) requiring all damage caused to the applicant as adjoining owner in consequence of the said works to be made good.

The grounds for this application are that—

[Here set out the grounds of the application, including particulars of the works carried out and the damage caused to the applicant as a consequence of the works.]

Dated this day of 20.....

Signed
Applicant/solicitor for the Applicant

To District Court Clerk
District Court Office
At

To the Respondent
At

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section 45

NOTICE OF APPLICATION FOR WORKS ORDER

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

TAKE NOTICE that the above-named applicant, being the building owner of a building or land adjoining premises or land at in the court area and district aforesaid in or on which the applicant wishes to exercise rights under section 44 of the above-mentioned Act to carry out works to a party structure, namely,, will apply to the District Court sitting at on the day of20.... at a.m./p.m. under section 45 of the said Act for a works order authorising the carrying out of specified works, namely:

[Here set out the works sought to be authorised.]

The grounds for this application are that—

[Here set out the grounds of the application, including any dispute with the respondent adjoining owner concerning the rights of the applicant to carry out the works.]

Dated this day of 20.....

Signed
Applicant/solicitor for the Applicant

To District Court Clerk
District Court Office
At

To the Respondent
At

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section 47

NOTICE OF APPLICATION FOR AN ORDER *DISCHARGING/
*MODIFYING A WORKS ORDER

District Court Area of District No.
..... Applicant
..... Building owner
..... Adjoining owner

TAKE NOTICE that the above-named applicant, of
(in the court area and district aforesaid) will apply to the District Court sitting
at on the day of 20..... at
..... a.m./p.m. for an order under section 47 of the above-mentioned
Act *discharging/*modifying a works order made by the District Court at
..... on the day of20.... authorising the
carrying out of specified works in a building or on land at
..... in the court area and district
aforesaid.

The applicant is affected by the works order because

The grounds for this application *(and the modifications sought to the works
order) are that—

*[Here set out the grounds of the application, including any modifications sought
to the terms of the works order.]*

Dated this day of 20.....

Signed
Applicant/solicitor for the Applicant

To District Court Clerk
District Court Office
At

To the Building owner
At

To the Adjoining owner
At

*delete where inapplicable

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section
44(4)(a)(i)

ORDER THAT DAMAGE BE MADE GOOD

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

WHEREAS UPON APPLICATION made to the Court today by the above-named applicant, being an adjoining owner of a building or land adjoining premises or land at in the court area and district aforesaid in or on which the respondent building owner of is carrying out works to a party structure, namely,, under section 44(4)(a)(i) of the above-mentioned Act, for an order requiring all damage caused to the applicant as adjoining owner in consequence of the said works to be made good.

THE COURT

BEING SATISFIED THAT notice of the application was duly served

BEING SATISFIED THAT the respondent building owner has failed within a reasonable time to make good damage under section 44(2)(a) of the said Act

HEREBY ORDERS pursuant to section 44(4)(a)(i) of the said Act that

.....

Dated this day of 20.....

Signed
Judge of the District Court

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section 45

WORKS ORDER

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

WHEREAS UPON APPLICATION made to the Court today by the above-named applicant, being the building owner of a building or land adjoining premises or land at in the court area and district aforesaid in or on which the applicant wishes to exercise rights under section 44 of the above-mentioned Act to carry out works to a party structure, namely,, for a works order under section 45 of the said Act authorising the carrying out of specified works.

THE COURT

BEING SATISFIED THAT notice of the application was duly served

BEING SATISFIED THAT the applicant is in dispute with the respondent adjoining owner with respect to the exercise of rights under section 44 of the said Act

HAVING REGARD to section 44 of the said Act and taking into account all other circumstances the court considers relevant

HEREBY ORDERS that the carrying out of the following specified works by or on behalf of the applicant be authorised, namely

*AND THIS ORDER AUTHORISES the said applicant building owner, and *its/*his/*her agents, employees or servants, to enter on a *building/*unbuilt-on land of an adjoining owner,, *for the purpose of /*for any purpose connected with the works,

*AND THIS ORDER REQUIRES the said applicant building owner, to *indemnify/* to give security in the amount of €..... by way of to the adjoining owner for damage, costs and expenses caused by or arising from the works or likely so to be caused or to arise.

*THE TERMS AND CONDITIONS (which the Court thinks fit in the circumstances of the case) subject to which said authorisation is given in accordance with section 46(1) of the said Act are:
[here set out any terms and conditions]

Dated this day of 20.....

Signed
Judge of the District Court

*delete where inapplicable

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section 47

ORDER *DISCHARGING/*MODIFYING A WORKS ORDER

| | |
|------------------------|-----------------|
| District Court Area of | District No. |
| | Applicant |
| | Building owner |
| | Adjoining owner |

WHEREAS UPON APPLICATION made to the Court today by the above-named applicant, of (in the court area and district aforesaid) for an order under section 47 of the above-mentioned Act *discharging/*modifying a works order made by the District Court at under section 45 of the said Act on the day of 20..... authorising the carrying out of specified works in a building or on land at in the court area and district aforesaid

THE COURT

BEING SATISFIED THAT notice of the application was duly served

BEING SATISFIED THAT the applicant is affected by the said works order

*HAVING HEARD *the evidence adduced and *the submissions on behalf of *the applicant, *the building owner,, *and the adjoining owner,

*HEREBY DISCHARGES the said works order

*HEREBY MODIFIES the said works order as follows

*and on the following terms and conditions

Dated this day of 20.....

Signed
Judge of the District Court

*delete where inapplicable

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section 98(1)

NOTICE OF APPLICATION FOR ORDER AUTHORISING
MORTGAGEE TO TAKE POSSESSION OF ABANDONED PROPERTY

District Court Area of District No.

..... Applicant

..... Respondent

TAKE NOTICE that the above-named applicant, being a mortgagee of mortgaged property of which the above-named respondent is the mortgagor at (hereinafter, the “mortgaged property”) in the court area and district aforesaid will apply to the District Court sitting at on the day of 20..... at a.m./p.m. under section 98(1) of the above-mentioned Act for an order against you,, the said respondent, of (in the court area and district aforesaid) authorising the said applicant to take possession of the mortgaged property on the grounds that the applicant mortgagee has reasonable grounds for believing that—

(a) the respondent mortgagor has abandoned the mortgaged property, and

(b) urgent steps are necessary to prevent deterioration of, or damage to, the mortgaged property or entry on it by trespassers or other unauthorised persons.

*No court is already seised of any application or proceedings relating to the mortgaged property.

*An application *proceedings relating to the mortgaged property *is/*are pending before the Court, under title and record number

Dated this day of 20.....

Signed
Applicant/solicitor for the Applicant

To District Court Clerk
District Court Office
At

To the Respondent
At

*delete where inapplicable

LAND AND CONVEYANCING LAW REFORM ACT 2009, Section 98(2)

ORDER AUTHORISING MORTGAGEE TO TAKE POSSESSION OF
ABANDONED PROPERTY

District Court Area of District No.

..... Applicant

..... Respondent

WHEREAS UPON APPLICATION made to the Court today by the above-named applicant, being a mortgagee of mortgaged property of which the above-named respondent is the mortgagor at..... (hereinafter, the “mortgaged property”) in the court area and district aforesaid, under section 98(1) of the above-mentioned Act for an order authorising the applicant to take possession of the mortgaged property

THE COURT

*BEING SATISFIED THAT notice of the application was duly served

*DEEMING SUFFICIENT service or notice given of the application to the respondent

*HAVING HEARD said applicant *and said respondent

HEREBY ORDERS that the said applicant mortgagee be and is hereby authorised to take possession of the mortgaged property at..... in the court area and district aforesaid

*THE TERMS AND CONDITIONS (which the Court thinks fit) subject to which said authorisation is given in accordance with section 98(2) of the said Act are:

[here set out any terms and conditions]

*AND THIS ORDER SPECIFIES that the said applicant mortgagee may retain possession of the said mortgaged property for the period from theday of.....20.... to theday of.....20....,

*AND THIS ORDER SPECIFIES that the said applicant mortgagee may carry out the following works for the purpose of—

- *protecting the mortgaged property
- *preparing the mortgaged property for sale in exercise of the mortgagee’s power under section 100 of the above-mentioned Act

*AND IT IS ORDERED that costs and expenses incurred by the said mortgagee [in connection with this application/and any works authorised by this order] in the amount of €.....be and they are hereby added to the mortgage debt.

Dated this day of 20.....

Signed
Judge of the District Court

*delete where inapplicable

EXPLANATORY NOTE

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

These rules amend the District Court Rules by the insertion of a new Order 93A to facilitate the operation of the Land and Conveyancing Law Reform Act 2009.

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,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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