



STATUTORY INSTRUMENTS.

S.I. No. 230 of 2024



CIRCUIT COURT RULES (GARDA SÍOCHÁNA (COMPENSATION) ACT
2022) 2024

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We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, by virtue of the powers conferred on us by section 66 of the Courts of Justice Act 1924; section 70 of the Courts of Justice Act 1936, (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961); 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, make the annexed Rules of Court.

Dated this 12th day of December 2023.

Patricia Ryan Chairperson

John F Aylmer

Tomás Keys

Tracy Ennis Faherty

Martin Lawlor

Ann Spaine

Rita Considine

Bridín Concannon

James Finn

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

Dated this 9th day of May 2024.

Helen McEntee

Minister for Justice

S.I. No. 230 of 2024

CIRCUIT COURT RULES (GARDA SÍOCHÁNA (COMPENSATION) ACT
2022) 2024

1. (1) These Rules, which may be cited as the Circuit Court Rules (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 Circuit Court Rules 2001 to 2022.

(3) The Circuit Court Rules 2001 to 2022 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2024.

2. The Circuit Court Rules are amended:

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

Schedule 1
“ORDER 5A
PROCEDURE BY PERSONAL INJURIES SUMMONS

Definitions

1. In this Order unless the context or subject matter otherwise requires -
the “2004 Act” means the Civil Liability and Courts Act 2004;
the “2022 Act” means the Garda Síochána (Compensation) Act 2022;
“dependant” includes:

- (i) a dependant within the meaning of section 47 of the Civil Liability Act 1961, 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 in the Court under section 23 of the 2022 Act is instituted in accordance with rule 3;

“personal injuries action” has the same meaning as 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 an initiating document by which a personal injuries action is instituted in accordance with rule 3;

“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.

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.

Personal injuries summons and Garda compensation personal injuries summons

3. (1) A personal injuries action shall be instituted by an originating document which shall be in accordance with Form 2P of the Schedule of Forms, and shall be referred to as 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 document, which shall be in accordance with Form 2U of the Schedule of Forms, and shall be referred to as a Garda compensation personal injuries summons.

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

Failure to serve letter of claim

4. (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 or Garda compensation personal injuries summons was issued, to include in the summons any of the information required by the 2004 Act or these Rules to be specified there, he shall include in the personal injuries summons or, as the case may be, the Garda compensation 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 summons is served or as soon as may be thereafter (whether by amendment or otherwise) provide such of the information required as was not included in the summons.

Pleadings

5. In every personal injuries action pleadings shall conform to the requirements of section 13 of the 2004 Act.

Appearance, defence and counterclaim

6. (1) A defence shall be delivered by each defendant who has entered an Appearance. The defence shall be in accordance with Form 6A(i) of the Schedule of Forms (with the necessary adaptations in the case of a defence to a Garda compensation personal injuries summons). Where any defendant makes a counterclaim, such counterclaim shall be in accordance with Form 6A(ii) of the Schedule of Forms and shall be appended to the defence.

(2) The defence shall be delivered to the plaintiff or his Solicitor within 6 weeks of the entry by the defendant of an Appearance.

Affidavit of verification

7. (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 accordance with Form 6A(iii) of the Schedule of Forms annexed hereto. Where the affidavit is not made separately to the pleading or other document concerned, it shall be appended to 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 appended to 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 lodgement of the affidavit in court.

(3) 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.

(4) An affidavit of verification shall be lodged in court as required by section 14(4) of the 2004 Act by being filed in the Office.

Applications by motion on notice

8. (1) The following applications in a personal injuries action shall, subject to the following rules of this Order, be made by motion to the Court on notice to the opposing party or parties, grounded, where necessary, 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 provide the information necessary to comply with section 10 of the 2004 Act;
- (ii) An application under section 11(3) or section 12(3) of the 2004 Act for relief by reason of the opposing party's failure to provide further information requested under section 11(1) or section 11(2) of the 2004 Act, or for an order for the delivery by the opposing party of further and better particulars of any pleading delivered by such party;
- (iii) An application by a party wishing to have evidence in the action given by affidavit, under section 19 of the 2004 Act;

An application referred to in paragraphs (i) or (ii) of this sub-rule shall not be issued 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 in accordance with this Order.

Mediation

9. (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, in addition to any matters required by section 16 of the 2004 Act to be contained in such report, 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.

Notices under the 2004 Act

10. (1) Where a party intends both to request further information under section 11(1) or section 11(2) of the 2004 Act and to request further particulars in accordance with Order 17, all such requests shall, except by consent or order

of the Court, be made in the same notice or letter, and be replied to in the same notice or letter.

(2) 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 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 accordance with Form 6A(iv) of the Schedule of Forms.

Pre-trial hearings under section 18 of the 2004 Act

11. (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."

Schedule 2
“FORM 2U

GARDA COMPENSATION PERSONAL INJURIES SUMMONS

O. 5A, r. 3

AN CHÚIRT CHUARDA
THE CIRCUIT COURT

CIRCUIT

COUNTY OF

Record No.:

Between

A.B.

Plaintiff

AND

.....

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 [*Insert address of appropriate Circuit Court Office*] in the above action within ten 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.

And further TAKE NOTICE that, if you intend to defend the proceedings on any grounds, you must not only enter an Appearance, but also, within six weeks after Appearance, deliver a statement in writing showing the nature and grounds of your Defence.

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 [*Insert address of appropriate Circuit Court Office*].

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)

as follows:

MALICIOUS INCIDENT ALLEGED

(Set out full particulars of the nature of the claim and of each allegation, assertion or plea comprising that claim)

1.....

2.....

PARTICULARS OF THE ACTS CONSTITUTING THE MALICIOUS INCIDENT

(Full particulars should be set out of 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)

PARTICULARS OF CIRCUMSTANCES RELATING TO THE COMMISSION OF THE MALICIOUS INCIDENT

(Full particulars should be set out. In addition, in the case of a claim referred to in section 23(6) of the Garda Síochána (Compensation) Act 2022, 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 Garda Síochána (Compensation) Act 2022 and that the claimant or that person was wholly or partly dependent on the deceased person)

PARTICULARS OF THE INJURIES TO THE PLAINTIFF

(Full particulars should be set out of the injuries to the plaintiff (or the deceased Garda concerned) alleged to have been inflicted as a result of the malicious incident)

RELIEFS CLAIMED

SCHEDULE

PARTICULARS OF ITEMS OF SPECIAL DAMAGE

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

(If applicable, insert particulars required by Order 5, rule 5A)

(Signed)

This Garda compensation personal injuries summons was issued by the plaintiff whose personal details are as follows:

1. The address at which the Plaintiff ordinarily resides is:

(state address accurately)

2. Plaintiff's occupation:

3. Plaintiff's date of birth: Day: Month Year

4. Plaintiff's Personal Public Service Number:.....

5. The plaintiff's address for service, if different from the plaintiff's address mentioned above, should be stated here:

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

INDORSEMENT OF SERVICE

This Garda compensation personal injuries summons was served by me at
..... on the defendant on day the day 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 Circuit Court Rules by the substitution of Order 5A and insertion of a new Form No 2U to the Schedule in the Circuit Court Rules to facilitate the operation of the Garda Síochána (Compensation) Act 2022 and to provide for a combined or composite notice for particulars and notices for further information under section 11 of the Civil Liability and Courts Act 2004.

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