



STATUTORY INSTRUMENTS

**S.I. No. 469 of 2008**



DISTRICT COURT (CHILD CARE) RULES 2008

**(Prn. A8/1828)**

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DISTRICT COURT (CHILD CARE) RULES 2008

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 18 day of February 2008.

Miriam Malone                      Chairperson

Uinsin Mac Gruairc

Thomas E O'Donnell

Brian Sheridan

Roy Pearson

Noel A Doherty

Elizabeth Hughes                      Secretary

I concur in the making of the foregoing rules

Dated this 18 day of November 2008

DERMOT AHERN  
Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 21st November, 2008.*

S.I. No. 469 of 2008

DISTRICT COURT (CHILD CARE) RULES 2008

1. These rules may be cited as the District Court (Child Care) Rules 2008.
2. These rules shall come into operation on the 16 day of December 2008 and shall be read together with all other District Court Rules for the time being in force.
3. Order 61A of the District Court Rules 1997 (S.I. No. 93 of 1997) is hereby amended by:

- (i) the substitution for the title thereof of the following:

*“Order 61A  
Requirements under—  
Section 40, Civil Liability and Courts Act 2004  
Section 29(5), Child Care Act 1991”*

- (ii) the insertion immediately following rule 1 thereof of the following:

2. (1) A person referred to in section 29(5) of the Child Care Act 1991 (inserted by section 3 of the Child Care (Amendment) Act 2007) intending to attend any proceedings to which Part III, Part IV or Part VI of the said Act applies or to seek access to any relevant court documents, for the purpose of the preparation of a report of such proceedings, the publication of a report prepared in accordance with section 29(5)(a) of the said Act or the publication of a decision of the Court in any such proceedings in accordance with section 29(5) shall, prior to or at the commencement of the hearing of any proceedings at which such person wishes to attend, identify himself or herself to the Court and apply for such directions as the Court may give under section 29(5) of the said Act.

(2) On any such application, the Court, if satisfied that the applicant is a person referred to in section 29(5) of Child Care Act 1991, and that the applicant intends to attend the proceedings for the purpose of the preparation of a report of such proceedings or to seek access to any relevant court documents, the publication of a report prepared in accordance with section 29(5)(a) of the said Act or the publication of a decision of the Court in any such proceedings in accordance with section 29(5), and having heard any submission made by or on behalf of any party to the proceedings, may give such directions as seem appropriate as to the terms upon which the applicant may attend the proceedings (or any part of the proceedings), and may give directions as to the access which such person may have to court documents relevant to the proceedings. Where the Court, in the special circumstances of the matter, directs that such person may

not attend the proceedings or have access to relevant court documents, the reasons shall be specified on giving such direction.

(3) The Court may, of its own motion or on the application of any party or person, vary or modify any such directions given under section 29(5) of the Act during the course of the proceedings.

(4) Where any question concerning access to relevant court documents arises otherwise than during the course of the proceedings, a person referred to in section 29(5) of the said Act or party to the proceedings concerned may apply at any sitting of the court for the court area in which the proceedings were heard or are to be heard, on notice to such person (if not the applicant) and the parties or other parties, for any further directions or to vary or modify any directions given under section 29(5) of the Act.”

4. Order 84 of the District Court Rules 1997 (S.I. No. 93 of 1997) is hereby amended by:

- (i) the insertion immediately following rule 27 thereof of the following rule

“27A. (1) An application for an order under section 43A of the Act by a foster parent or relative with whom the child has been placed shall be preceded by the issue and service by the applicant of a notice in the Form 84.53A, Schedule C upon the Health Service Executive. A copy of the notice shall, where section 43A(2)(d)(ii) applies, be served by the Health Service Executive on the parent having custody of the child at the relevant time or a person (other than the applicant) acting in loco parentis to the child.

(2) The consent of the Health Service Executive under section 43A(2)(c) of the Act to the granting of the order shall be in writing and the original consent shall be appended to the original notice of application. Where a consent has been obtained under section 43A(2)(d)(i) of the Act to the granting of the order the original of such consent, if in writing, shall be appended to the original notice of application or produced at the hearing of the application, and where such consent in writing is not so appended or produced, such consent shall, where required, be proved by such other means as the court considers appropriate.

(3) A copy of the notice of application 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 84.53B, Schedule C and the applicant shall cause the said order to be served upon the respondent and upon any other person directly affected by the Order.

(4) An application pursuant to section 43B(1) of the Act for an order varying or discharging an order made under section 43A shall be preceded by the issue of a notice of application in the Form 84.53C, Schedule C. A copy of the notice of application shall, to the extent possible, be served upon each of the persons referred to in section 43B(1)(a) to (e) of the Act not later than four days before the date fixed for the hearing of 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 84.53D, Schedule C and the applicant shall cause the said order to be served upon each of the respondents and upon any other person directly affected by the Order.”

5. The Forms numbered 84.53A to 84.53D inclusive in Schedule 1 hereof 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. 84.r. 27A(1).

84.53A

CHILD CARE ACT 1991, SECTION 43A (AS INSERTED BY SECTION 4  
OF THE CHILD CARE (AMENDMENT) ACT 2007)

NOTICE OF APPLICATION FOR AN ORDER UNDER SECTION 43A  
OF THE ACT

Children Court Area of .....District No.

In the matter of .....a child

.....of.....

Applicant

.....of .....

Respondent

Whereas the child referred to above is in the care of the Health Service Execu-  
tive under \*section 4 \*section 18 of the Child Care Act 1991 and has been placed  
with the applicant \*under section 36(1)(a) of the said Act as foster parent \*  
under section 36(1)(d) of the said Act as a relative.

Take notice that the applicant will apply to the sitting of the Children Court to  
be held at..... on the day of 20 . at am/pm for an  
order under section 43A of the Child Care Act 1991.

The consent of the Health Service Executive under section 43A(2)(c) of the Act  
to the granting of the order is appended to this notice of application.

Dated this day of 20 .

Signed.....

Applicant/Solicitor for the applicant

To.....

of .....

Respondent(s)

And to District Court Clerk at.....

\*Delete words inapplicable

CHILD CARE ACT 1991, SECTION 43A (AS INSERTED BY SECTION 4  
OF THE CHILD CARE (AMENDMENT) ACT 2007)

ORDER UNDER SECTION 43A OF THE ACT

Children Court Area of ..... District No.

In the matter of ..... a child

.....of .....

Applicant

.....of .....

Respondent

Upon application made to the Court today by the above named applicant under section 43A(2) of the above mentioned Act, for an order under section 43A of the said Act in respect of the above named child who appears to the Court to be aged... years having been born \*so far as has been ascertained\* on ..... day of ..... and who resides at ..... in said court (area and) district.

THE COURT BEING SATISFIED THAT

notice of the application was duly served

the said child is in the care of the Health Service Executive under \*section 4 \* section 18 of the Child Care Act 1991 and has been placed with the applicant \* under section 36(1)(a) of the said Act as foster parent \*under section 36(1)(d) of the said Act as a relative

the said applicant has been taking care of the said child for a period of not less than five years beginning on the date of placement in accordance with the Child Care Act 1991 and ending on the date of application

the granting of the order is in the child's best interests

the Health Service Executive has consented in advance under section 43A(2)(c) of the Act to the granting of the order

\*the Health Service Executive has, on behalf of the applicant, obtained the consent under section 43A(2)(d)(i) of the Act to the granting of the order of a parent having custody of the child at the relevant time or a person (other than the applicant) acting in loco parentis to the child, the child being in the care of the Health Service Executive under section 4 of the said Act

\*the consent of a parent having custody of the child at the relevant time or a person (other than the applicant) acting in loco parentis to the child under section 43A(2)(d)(i) of the Act to the granting of the order (the child being in the care of the Health Service Executive under section 4 of the said Act), is not

required because \*such person is missing and cannot be found by the Health Service Executive \*the Court, having regard to the child’s welfare so directs

\*the Health Service Executive has, on behalf of the applicant, given notice of the application under section 43A(2)(d)(ii) of the Act to the granting of the order to a parent having custody of the child at the relevant time or a person (other than the applicant) acting in loco parentis to the child, the child being in the care of the Health Service Executive under section 18 of the said Act

\*the notification of a parent having custody of the child at the relevant time or a person (other than the applicant) acting in loco parentis to the child under section 43A(2)(d)(ii) of the Act (the child being in the care of the Health Service Executive under section 18 of the said Act) is not required because \*such person is missing and cannot be found by the Health Service Executive \*the Court, having regard to the child’s welfare so directs

the child’s wishes have, so far as is practicable, been given due consideration having regard to the age and understanding of the child

HEREBY GRANTS an order under section 43A of the said Act, which shall, subject to the conditions and restrictions set out in this order, take effect in accordance with section 43A(5) of the said Act.

The Court imposes the following conditions or restrictions as to the authority of the applicant in accordance with section 43A(6) of the said Act, namely..... [*insert any conditions or restrictions*]

Dated this ..... day of .....20.....

Signed.....  
Judge of the Children Court

\*Delete words inapplicable



84.53C

SCHEDULE C.  
O.84, r. 27A(4).

CHILD CARE ACT 1991, SECTION 43B (AS INSERTED BY SECTION 4  
OF THE CHILD CARE (AMENDMENT) ACT 2007)

NOTICE OF APPLICATION TO \*VARY \*DISCHARGE \*A  
CONDITION \*RESTRICTION \*ATTACHING TO \*AN ORDER UNDER  
SECTION 43A OF THE ACT

Children Court Area of ..... District No.

In the matter of ..... a child

.....of.....

Applicant

.....of.....

Respondent

WHEREAS on application of ....., made under section 43A of the above-  
mentioned Act, this Court on the ...day of ....20..... made an order under  
section 43A of the said Act

\*AND WHEREAS the said order contained a \*condition \*restriction that .....

.....

TAKE NOTICE that the above-named applicant will apply at the sitting of  
the Children Court to be held at .....

on the ... day of .....20..... at ..a.m./p.m., under section 43B(1) to have the  
said \*order \*condition \*restriction

\*DISCHARGED

\*VARIED as follows: .....

on the grounds that .....

Dated this ....day of.....20.....

Signed.....  
Applicant/Solicitor for the Applicant

To.....  
of.....  
the above-named respondent(s)

\*Delete words inapplicable

SCHEDULE C.  
O.84, r. 27A(4).

CHILD CARE ACT 1991, SECTION 43B (AS INSERTED BY SECTION 4  
OF THE CHILD CARE (AMENDMENT) ACT 2007)

ORDER \*VARYING \*DISCHARGING \*A CONDITION \*  
RESTRICTION \*ATTACHING TO \*AN ORDER UNDER SECTION 43A  
OF THE ACT

Children Court Area of ..... District No.

In the matter of ..... a child

.....of .....  
Applicant

.....of .....  
Respondent

WHEREAS on application of ....., made under section 43A of the above-  
mentioned Act, this Court on the ...day of ...20..... made an order under section  
43A of the said Act

\*AND WHEREAS the said order contained a \*condition \*restriction that .....  
.....

NOW THE COURT on the application herein under section 43B(1) of the Act  
for an order to \*vary \*discharge the said \*order \*condition \*restriction,

BEING SATISFIED that notice of the application herein was duly served

HAVING HEARD the evidence tendered

BEING SATISFIED that the welfare of the child so requires

HEREBY ORDERS that the said \*order \*condition \*restriction

\*BE DISCHARGED

\*BE VARIED as follows: .....

Dated this ....day of.....20.....

Signed.....  
Judge of the Children Court

\*Delete words inapplicable

EXPLANATORY NOTE

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

These Rules amend Orders 61A and 84 of the District Court Rules to take account of the provisions of sections 3 and 4 of the Child Care (Amendment) Act 2007.

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 - 6476834/37 nó 1890 213434; Fax: 01 - 6476843 nó 094 - 9378964)  
nó trí aon díoltóir leabhar.

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