



STATUTORY INSTRUMENTS.

**S.I. No. 358 of 2012**



CIRCUIT COURT RULES (ACTIONS FOR POSSESSION AND WELL-  
CHARGING RELIEF) 2012

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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 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 and Equality, make the annexed Rules of Court.

Dated this 12th day of June 2012.

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

Alison Lindsay  
David Dodd  
Gerard J. Doherty  
Noel Rubotham  
Susan Ryan  
Patricia Casey

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

Dated this 16th day of September 2012.

ALAN SHATTER,  
Minister For Justice and Equality.

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 25th September, 2012.*

S.I. No. of 2012

CIRCUIT COURT RULES (ACTIONS FOR POSSESSION AND WELL-CHARGING RELIEF) 2012

1. These Rules, which may be cited as the Circuit Court Rules (Actions for Possession and Well-Charging Relief) 2012, shall come into operation on the 15th day of October 2012.

2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2012.

3. Order 5B of the Circuit Court Rules is amended:

(i) by the substitution for sub-rule (2) of rule 5 of the following sub-rule:

“(2) A defendant intending to defend proceedings to which this Order applies shall enter an Appearance in the Office in Form 5 in the Schedule of Forms within ten days of the service upon him of the Civil Bill and shall defend the plaintiff’s claim by filing a replying affidavit to the plaintiff’s affidavit setting out the defendant’s defence and serving a copy of that affidavit (and copies of any exhibits to that affidavit) on the plaintiff not later than four days before the return date.”

(ii) by the substitution for paragraph (e) of sub-rule (1) of rule 7 of the following paragraph:

“(e) where an appearance has not been entered or an affidavit in accordance with rule 5(2) setting out a defence has not been filed and delivered, make an order for possession in accordance with paragraph (xxxiii) or (xxxiv) of the Second Schedule to the Courts and Courts Officers Act 1995;”;

(iii) by the substitution for sub-rule (2) of rule 7 of the following sub-rule:

“(2) Where an affidavit setting out a defence has been filed in accordance with rule 5(2), the County Registrar shall transfer the Civil Bill, when in order for hearing, to the Judge’s list on the first opportunity.”, and

(iv) by the substitution for sub-rule (4) of rule 7 of the following sub-rule:

“(4) Evidence as to failure to enter an appearance or to file an affidavit within the time permitted by these Rules may be given by production of a certificate of non-appearance issuing from the Office or otherwise as the County Registrar permits.”

EXPLANATORY NOTE

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

These Rules amend rules 5 and 7 of Order 5B of the Circuit Court Rules by the substitution of sub-rule (2) in rule 5 and sub rules (1) (e), (2) and (4) in rule 7 to modify the procedure in respect of proceedings for recovery of possession of land on foot of a legal mortgage or charge and proceedings to declare a mortgage well charged on land.

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,  
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€2.54

