



STATUTORY INSTRUMENTS.

**S.I. No. 381 of 2018**



RULES OF THE SUPERIOR COURTS (ORDER 85) 2018

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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, and reconstituted pursuant to the provisions of the Courts of Justice Act 1953, section 15, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), and the Courts (Supplemental Provisions) Act 1961, section 14, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 31 day of May, 2018.

Frank Clarke  
Sean Ryan  
Peter Kelly  
Elizabeth Dunne  
Michael Peart  
Gerard Hogan  
Anthony Barr  
Conor Dignam  
Gráinne Larkin  
Stuart Gilhooly  
Michael Kavanagh  
Mary Cummins  
Noel Rubotham  
John Mahon.

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

Dated this 25th day of September, 2018.

CHARLES FLANAGAN,  
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 28th September, 2018.*

S.I. No. 381 of 2018

RULES OF THE SUPERIOR COURTS (ORDER 85) 2018

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Order 85) 2018, shall come into operation on the 17th day of October 2018.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2018.

2. The Rules of the Superior Courts are amended by the insertion immediately following rule 13 of Order 85 of the following rule:

“14. (1) A disclosure application under section 19A(3) or section 19A(5) of the Criminal Evidence Act 1992 (as inserted by section 39 of the Criminal Law (Sexual Offences) Act 2017), shall be by notice of motion (which need not be grounded upon an affidavit), which notice shall constitute the notification required by section 19A(4) or, as the case may be, section 19A(6) of the said Act.

(2) A copy of the notice of motion which shall give not less than seven days' notice of the hearing date, shall:

(i) where the disclosure application is made under section 19A(3), be served on the person who has possession or control of the counselling record, the prosecutor (who shall transmit a copy to the complainant) and any other person (other than the complainant) to whom the accused believes the counselling record relates, not later than sixteen weeks prior to the date fixed for trial or such lesser period prior to the date fixed for trial as the Court may fix, or

(ii) where the disclosure application is made under section 19A(5), be served on the person who has possession or control of the relevant record, the complainant, the accused and any other person to whom the prosecutor believes the counselling record relates, not later than fourteen weeks prior to the date fixed for trial or such lesser period prior to the date fixed for trial as the Court may fix.

(3) The notice of motion shall include:

(a) particulars identifying the record sought, and

(b) the reasons grounding the application, including grounds relied on to establish that the record is likely to be relevant to an issue at trial.

(4) Where the disclosure application is by the prosecutor, the notice of motion shall also include a statement that the prosecutor believes that it is in the interests of justice that the record should be disclosed.

(5) The Court may, where it considers it necessary or appropriate, direct or permit the delivery and filing of any affidavit or may hear oral evidence on any motion under this rule.”

EXPLANATORY NOTE

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

These rules amend Order 85 by the insertion of rule 14 to allow for a disclosure application under section 19A(3) or section 19A(5) of the Criminal Evidence Act 1992 (as inserted by section 39 of the Criminal Law (Sexual Offences) Act 2017), by way of a notice of motion.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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nó trí aon díoltóir leabhar.

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