



STATUTORY INSTRUMENTS.

**S.I. No. 497 of 2020**



DISTRICT COURT (ENFORCEMENT OF ORDERS) RULES 2020

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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, section 24 of the Interpretation Act 2005, and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 29<sup>th</sup> day of September 2020.

Colin Daly

Chairperson

Riobard Pierse

Ciara McMahon

James Finn

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

Dated this 30<sup>th</sup> day of October 2020.

HELEN MCENTEE

Minister for Justice and Equality

## S.I. No. 497 of 2020

## DISTRICT COURT (ENFORCEMENT OF ORDERS) RULES 2020

1. (1) These Rules, which shall come into operation on the 10<sup>th</sup> day of November 2020, may be cited as the District Court (Enforcement of Orders) Rules 2020.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2020.

2. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended:

(i) by the substitution in Order 51 for rule 1 of the following rule:

“1. In this Order, unless the context or subject matter otherwise requires—

“warrant of execution” or, when used without qualification, “warrant” includes a warrant to seize property, a warrant of delivery of goods and a warrant for possession.”;

(ii) by the substitution in Order 51, for rule 14, of the following captions and rules:

“3—WARRANTS OF DELIVERY

14 Warrant of delivery

14. (1) If an order is made by the Court—

(a) for delivery of goods; or

(b) for delivery of goods or recovery of their assessed value—

a Clerk may issue and sign in accordance with Order 35 a warrant of delivery.

(2) If the order of the Court is for the assessed value of goods only, the order may be enforced by the same means as any other order for the payment of money.

4—WARRANTS FOR POSSESSION

15 Warrant for possession

15. (1) In this rule, “land” has the same meaning as in section 3 of the Land And Conveyancing Law Reform Act 2009.

(2) In any case in which the Court is empowered to make, and makes in any proceedings, an order which has the effect of—

- (a) requiring a person to vacate, or deliver up possession of, any land; or
- (b) requiring a person to be put into possession of, any land,

a Clerk may, subject to the provisions of this rule and to the terms of the order of the Court, issue and sign in accordance with Order 35 a warrant for possession of the land specified in the order, which may be in the Form 51.01, Schedule C, with such modifications as are necessary, when the order is made, or at any time not exceeding six months after the date on which the order becomes enforceable.

(3) After the expiration of six months from the date on which the order becomes enforceable, a warrant may only be issued on application to the Court by the claimant, or the successor to or assignee of the estate or interest of the claimant, by motion in the proceedings in which the order was made, on notice to the respondent.

(4) A warrant for possession may not issue under this rule at any time when the order mentioned in sub-rule (2) has not taken effect in accordance with its terms or is stayed, whether by order of the Court or otherwise.

(5) An application to the Court to stay execution of an order mentioned in sub-rule (2) or to postpone the date of possession may be made by motion in the proceedings in which the order was made, on notice to the other party or parties to those proceedings. In a case of urgency, however, the application may be made *ex parte* on the lodgment of the notice of motion with the Clerk and where the Court grants such application the Clerk shall forthwith notify the other party or parties to those proceedings accordingly.

(6) A warrant for possession must be addressed for execution to the County Registrar or Sheriff for the county in which the land is situated.”;

- (iii) by the substitution for sub-rules (4) to (7) of rule 3 of Order 93 of the following sub-rules:

“(4) Where recovery of possession of a dwelling under section 16 of the Act is sought the application to the Court shall be preceded by the issue and service of a notice in the Form 93.7, Schedule C upon the tenant. The warrant for delivery of possession may be in the Form 51.01, Schedule C and Order 51 shall apply to such warrant for possession.

(5) Where compensation is sought under section 19 of the Act the application to the Court shall be preceded by the

issue and service of a notice in the Form 93.10, Schedule C upon the landlord. The order of the Court shall be in the Form 93.11, Schedule C. Where an order is made for the recovery of money, or for costs, a warrant authorising execution may issue in accordance with Order 51.

(6) An appeal to the Court under section 26(5) of the Act shall be preceded by the issue and service of a notice in the Form 93.12, Schedule C on the housing authority and upon the tenant. The order of the Court shall be in the Form 93.13, Schedule C.”;

- (iv) by the insertion in Order 93C immediately following sub-rule (12) of rule 2 of the following sub-rule:

“(13) Where an order is made for the enforcement of a determination for recovery of vacant possession of a dwelling, a warrant for possession may issue in accordance with Order 51, and Order 51 shall apply to such warrant for possession. Where an order is made for the recovery of money, or for costs, a warrant authorising execution may issue in accordance with Order 51.”, and

- (v) by the insertion in rule 15 of Order 99A, immediately following sub-rule (2), of the following sub-rule:

“(3) Where an order for possession is made, a warrant for possession may issue in accordance with Order 51, but subject to the terms of the Court’s order and to the provisions of the 2014 Act, and Order 51 shall apply to such warrant for possession. Where an order is made for the recovery of costs, a warrant authorising execution may issue in accordance with Order 51.”

3. (1) The Form 51.01 in Schedule 1 shall be added to Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997) in the appropriate sequence.

(2) The Form 93.8 shall be deleted from Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997).

**Schedule 1**

51.01

SCHEDULE C

O.51, r. 15; O. 93, r. 3(4); O. 93C, r. 2(13); O. 99A, r. 15(3)

District Court Area of

District No.

[Title as in proceedings in which the relevant order for possession was made]

Warrant to Sheriff or County Registrar

WHEREAS UPON APPLICATION to the Court by the above-named applicant against the above-named respondent, pursuant to

\*section 16 of the Housing (Private Rented Dwellings) Act 1982

\*section 124 of the Residential Tenancies Act 2004

\*section \*12 \*13 \*17 of the Housing (Miscellaneous Provisions) Act 2014

concerning premises namely, ..... at ....., in the court (\*area and) district aforesaid (hereinafter, the “premises”), for an order for the recovery of possession of the premises \*(by way of enforcement of a determination order)

THE COURT being satisfied that the applicant was entitled to the order sought, ORDERED AND DECREED on the .....day of .....20..., that the respondent deliver up possession of the premises to the applicant on or before the .....day of .....20..., \*(and pay to the applicant €..... for arrears of rent, €.....for mesne profits, €.... for costs and €..... for expenses, making together the sum of €.....).

\*AND WHEREAS the said order has not been complied with,

THIS IS TO COMMAND you to whom this warrant is addressed to execute the said order as follows:—

To enter upon and give possession of the premises to the applicant \*(or to ..... ) or his/her agent \*(and to take in execution the goods of the respondent to satisfy the said sum of €....), and for this the present warrant shall be a sufficient authority to all whom it may concern.

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

Signed .....

Judge of the District Court/District Court Clerk assigned to the said court area

To the County Registrar/Sheriff of ..... and his/her assistants

(County Registrar's warrant to be added)

EXPLANATORY NOTE

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

These rules amend Order 51 to prescribe a general category of warrants for possession as part of the execution provisions in Order 51 together with a template form of warrant. In addition Order 93 rule 3, Order 93C rule 2 and Order 99A rule 15 are amended to expressly apply such provisions.

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