



STATUTORY INSTRUMENTS

S.I. No. 588 of 2007



CIRCUIT COURT RULES (PENSIONS OMBUDSMAN) 2007

(Prn. A7/1590)

CIRCUIT COURT RULES (PENSIONS OMBUDSMAN) 2007

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, and section 12 of the Courts of Justice Act 1947, 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, Equality and Law Reform, make the annexed Rules of Court.

Dated this 8th day of March, 2006.

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

Patrick Hunt

Fergal Foley

Joe Deane

Noel Rubotham

Susan Ryan (Secretary)

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

Dated this 16th day of August, 2007

Signed: BRIAN LENIHAN
Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 21st August, 2007.*

S.I. No. 588 of 2007

CIRCUIT COURT RULES (PENSIONS OMBUDSMAN) 2007

1. These Rules, which may be cited as the Circuit Court Rules (Pensions Ombudsman) 2007, shall come into operation on the 13th day of September 2007.
2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2007.
3. All applications served or proceedings taken under sections 137 or 141 of the Pensions Act 1990 (No. 25 of 1990) before these Rules shall have come into operation but which are in accordance with the existing Rules and practice of the Court shall have the same validity as application made or proceedings taken in accordance with these Rules.
4. The Circuit Court Rules are hereby amended by the insertion, immediately following Order 63D, of the following Order:

“ORDER 63E — Pensions Ombudsman

1. In this Order “the Act” means the Pensions Act, 1990 (No. 25 of 1990), and “the Ombudsman” means the Pensions Ombudsman the office of whom was established by Section 127 of the Act and “the Minister” means the Minister for Social, Community and Family Affairs.

2. An application by the Ombudsman pursuant to section 137(5) of the Act for an order requiring a person to comply with a requirement made of that person by the Ombudsman in exercise of a power under section 137(1) or (2) of the Act shall be made by way of originating Motion on Notice grounded upon affidavit sworn by the Ombudsman or by an appropriate officer duly authorised by the Ombudsman, which affidavit shall contain particulars of the requirement made of the person concerned and of the alleged failure to comply with the same, and shall exhibit any documentation (including any correspondence or transcript) relating to such requirement and such alleged failure to comply.

3. An application pursuant to section 141(1) of the Act for an order directing that a party carry out a determination of the Ombudsman shall be made by way of originating Motion on Notice grounded upon affidavit sworn by the party seeking the carrying out of the determination or, in the case of the Minister, by an appropriate officer duly authorised by the Minister, which said affidavit shall exhibit:

- (a) a certified copy of the determination of the Ombudsman and
- (b) a certified copy of the covering letter from the Ombudsman issued to the

Applicant with the aforementioned determination of the Ombudsman and shall set out:

- (i) all the facts relevant to the alleged failure to carry out the determination;
- (ii) whether or not an appeal has been brought from the determination and, if no such appeal has been brought, that the time for appeal has elapsed and, if such appeal has been brought, the date upon which Notice of Appeal was given and evidence of abandonment thereof.

4. Notice of every application under this Order shall be given to the other party concerned by serving notice of the proceedings (including the Notice of Motion and grounding affidavits) no later than 10 days prior to the return date specified in the Notice of Motion, personally in accordance with the provisions of Order 11 of these Rules or by leaving a true copy of same at the other party's residence or place of business or by pre-paid registered post to the other party's residence or place of business, as appropriate.

5. Save by special leave of the Court, all applications under sections 137(5) or 141(1) of the Act shall be heard only upon affidavit evidence.

6. The Court may make such Order as to costs as may be appropriate including an Order measuring the costs.

7. An application referred to in Rule 2 hereof shall be brought in the circuit in which the party against whom the order is sought ordinarily resides.

8. An application referred to in Rule 3 hereof shall, in accordance with section 141(4) of the Act, be brought in the circuit in which the relevant member or, as appropriate, contributor ordinarily resides."

EXPLANATORY NOTE

(This Note is not part of the instrument and does not purport to be a legal interpretation.)

These Rules prescribe Circuit Court procedures in respect of applications brought under section 137 of the Pensions Act 1990 for an order requiring a person to comply with a requirement made of that person by the Pensions Ombudsman, and under section 141 of that Act for an order for the carrying out of determinations of the Pensions Ombudsman.

BAILE ÁTHA CLIATH
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