



STATUTORY INSTRUMENTS.

S.I. No. 539 of 2009

CIRCUIT COURT RULES (CASE PROGRESSION (GENERAL)) 2009

(Prn. A9/1851)

CIRCUIT COURT RULES (CASE PROGRESSION (GENERAL)) 2009

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 10th day of November 2009.

(Signed): Matthew Deery

(Chairman of the Circuit Court Rules Committee)

Alison Lindsay

Tony Hunt

Gerard J. Doherty

Joe Deane

Noel Rubotham

Susan Ryan

Patricia Casey

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

Dated this 17th day of December 2009.

Signed: DERMOT AHERN,

MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 22nd December, 2009.*

S.I. No. 539 of 2009

CIRCUIT COURT RULES (CASE PROGRESSION (GENERAL)) 2009

1. (a) These Rules, which may be cited as the Circuit Court Rules (Case Progression (General)) 2009, shall come into operation on the 1st day of January 2010.
- (b) These Rules shall apply to proceedings referred to in Order 19A rule1(2) commenced after the date mentioned in paragraph (a) and proceedings under that rule pending on that date shall be continued and completed as if these Rules had not been made.
2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2009.
3. The Circuit Court Rules are amended by the insertion, immediately following Order 19, of the following Order:

“Order 19A

Case Progression (General)”

1. (1) In this Order:

“case progression” means the preparation of proceedings for trial in accordance with the procedure under this Order;

“case progression direction” means a direction, given in respect of individual proceedings within a category referred to in sub-rule (2) and in accordance with rule 3(1), that such proceedings shall be subject to case progression.

- (2) Subject to sub-rule (3), this Order shall apply to the following proceedings:

- (a) Equity proceedings;
- (b) proceedings on foot of a Succession Law Civil Bill;
- (c) any proceedings, not referred to at paragraph (a), which include a claim for specific performance or for damages for breach of contract in respect of the construction, extension, alteration or repair of a building or other structure;
- (d) any other category of proceedings, or any other proceedings having or involving any characteristics, designated by the President of the Circuit Court as proceedings which may be subject to case progression, such designation to be published in such manner as the President of the Circuit Court shall direct.

(3) This Order shall not apply to the following proceedings:

- (a) proceedings to which Order 59 rule 4 (38) applies;
- (b) proceedings to which Order 5B applies.

2. The purpose of case progression is to ensure that proceedings are prepared for trial in a manner which is just, expeditious and likely to minimise the costs of the proceedings and that the time and other resources of the court are employed optimally.

3. (1) A case progression direction may be given—

- (a) by the County Registrar of his own motion at any listing or hearing before the County Registrar in the proceedings;
- (b) by the Judge of his own motion at any listing or hearing before the Judge in the proceedings;
- (c) by the county registrar or the Judge on the application by motion of any party to the County Registrar or the Judge, as the case may be, on notice to the other party or parties.

(2) A case progression direction may be given where the County Registrar or the Judge (as the case may be) is satisfied that it would be appropriate to do so, having regard to the complexity of the proceedings, the number of issues or parties, the likely volume of evidence, or for other special reason, such reason to be specified in the order.

4. (1) Where a case progression direction is given—

- (a) the proceedings shall be listed before the County Registrar for case progression, whereupon the County Registrar shall issue a summons, in Form 8A of the Schedule of Forms, to the parties for a case progression hearing on such date as may be fixed by the County Registrar, giving not less than 21 days' notice to the parties;
- (b) the plaintiff or other party prosecuting the proceedings shall, not later than seven days prior to the case progression hearing, file in the Office an indexed book of pleadings exchanged between the parties, and shall serve a copy of the index on the other party or parties.

(2) The purpose of the case progression hearing shall be to ensure that the proceedings are prepared for trial in the manner referred to in rule 2, and in particular that, as soon as may be in advance of the trial:

- (a) the issues, whether as to fact or law, are defined as clearly, as precisely and as concisely, as possible;
- (b) all pleadings, affidavits and statements of issues are served;

(c) any applications by notice for further particulars, accounts or documents and replies thereto, any admissions, or requests for admissions, notices to admit documents or facts and replies thereto, any affidavits made in pursuance of any notices to admit facts or documents, and any applications by letter for discovery and replies thereto are made, served or delivered, as the case may be; and

(d) all applications for relief of an interlocutory nature intended to be made by any of the parties are made.

5. (1) Each County Registrar shall maintain a record, which may be in electronic form, of all proceedings at case progression hearings before him.

(2) Such record shall, for the proceedings concerned, include particulars of—

(a) the date of issue of the summons to attend the hearing;

(b) the date of each hearing and any adjournment thereof;

(c) where the hearing is adjourned, the reason for the adjournment;

(d) the name of the county registrar conducting the hearing;

(e) the names of counsel, solicitors and any parties attending;

(f) the orders made or directions given at the hearing or any adjournment thereof.

(3) A copy of the record shall be placed on the Court file and a further copy of same shall be made available to a party to the proceedings at his request.

6. (1) At the case progression hearing, the County Registrar—

(a) shall establish what steps remain to be taken to prepare the case for trial, fix a timetable for the completion of preparation of the case for trial, and for that purpose adopt any timetable proposed by the parties if satisfied that it is reasonable;

(b) may make orders or give directions with respect to pleadings, the exchange between the parties of statements of issues, the identifying of issues in dispute between the parties, particulars, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions and examination of witnesses, or otherwise, which may be necessary or expedient;

(c) may, in respect of parties who are *sui juris*, receive and record on behalf of the Court undertakings to the Court pending the trial of the proceedings or until further order made by the Court;

(d) may make inquiries of the parties so as to ascertain the likely length of the trial and the arrangements, if any, for witnesses, information

and communications technology (including video conferencing) and any other arrangements which require to be made for the trial;

- (e) may fix the time and mode of trial, and may fix a date for trial and may also give directions as to the service of a notice of trial or a notice to fix a date for trial;
- (f) may make any orders and give any directions in respect of arrangements for the trial as he considers necessary;
- (g) may direct any expert witnesses to consult with each other within such time as the County Registrar shall specify for the purposes of—
 - (i) identifying the issues in respect of which they intend to give evidence,
 - (ii) where possible, reaching agreement on the evidence that they intend to give in respect of those issues, and
 - (iii) considering any matter which the county registrar or the Judge may direct them to consider,

and require that such witnesses record in a memorandum to be jointly submitted by them to the county registrar and delivered by them to the parties, particulars of the outcome of their consultations, within such time as the county registrar shall specify, provided that any such outcome shall not be in any way binding on the parties.

(2) Any order made or direction given at a case progression hearing shall be issued within 21 days of that hearing.

(3) The County Registrar may adjourn a case progression hearing from time to time and from place to place as may be appropriate to enable any order made or direction given to be complied with or any act to be done or step to be taken in the proceedings to be done or taken, or so as to resume a case progression hearing after a matter has been referred to the Court.

7. (1) The Judge, or the County Registrar at a case progression hearing, may on the application of any of the parties on notice or of his own motion, when he considers it appropriate and having regard to all the circumstances of the case, order that the proceedings or any issue therein be adjourned for such time, ordinarily not exceeding 28 days, as he considers appropriate and invite the parties to use mediation, conciliation, arbitration or other dispute resolution process (each of which process is referred to in this sub-rule as “an ADR process”) to settle or determine the proceedings or issue.

(2) Where the parties decide to take a step referred to sub-rule (1)—

- (a) the County Registrar or the Judge, as the case may be, may extend the time for compliance by any party with any provision of these Rules;

- (b) the Judge may extend the time for compliance by any party with any order made by the Judge in the proceedings and
- (c) the County Registrar or the Judge, as the case may be, may make further or other orders or give directions to facilitate the effective use of an ADR process.

(3) Where an order has been made under sub-rule (1)—

- (a) the Judge or the County Registrar, as the case may be, may list the proceedings from time to time for a report as to the extent of progress made in the use of an ADR process;
- (b) any party may, on notice to the other party, apply for the order to be discharged.

8. (a) Where the County Registrar concludes that there has been undue delay or default in complying with any order made or direction given by the Court or by him, or with any requirement of these Rules, he may list the matter for hearing at the next sitting of the Court or, after consultation with the appropriate County Registrar, cause the matter to be listed at the next sitting of the Court at any venue within the Circuit.

- (b) Where the County Registrar so concludes, he shall furnish a Report to the Court setting out the delay or default concerned. Such report shall be in Form 8B of the Schedule of Forms.

9. The solicitors appearing for each of the parties or, where a party is not represented by a solicitor, the party himself, shall attend the case progression hearing and any adjournment thereof. Where the County Registrar considers it necessary or desirable, he may direct that a party attend the hearing notwithstanding the fact that the party may be represented by a solicitor.

10. (1) Each representative of a party attending the case progression hearing shall ensure that he is sufficiently familiar with the proceedings and has authority from the party he represents to deal with any matters that are likely to be dealt with.

(2) Where a party is represented by counsel such counsel may attend the case progression hearing, but the fees of counsel for either party for attending the case progression hearing will be allowed in the taxation and measurement of costs only where the County Registrar so certifies.

11. (1) The County Registrar may award costs incurred in connection with the case progression hearing as between party and party.

(2) The County Registrar may tax and measure any such costs, and may, where the Court so directs, tax and measure any solicitor and client costs incurred in connection with a case progression hearing.

(3) Unless otherwise ordered by the County Registrar or the Judge, the costs of an application by a party for a case progression direction shall be costs in the cause.

(4) Where it appears to the County Registrar that a case progression hearing cannot conveniently proceed, or it appears to the Court that a case progression hearing could not conveniently proceed by reason of the failure of a party to be prepared for such hearing or, by reason of the default of any party in complying with any order or direction of the County Registrar, the County Registrar or, as the case may be, the Court, may award costs against such party, or may disallow the costs of such party, as the case may be.

4. The Forms following, numbered respectively 8A and 8B, shall be inserted in the Schedule of Forms annexed to the Circuit Court Rules immediately following Form 8.

FORM 8A

SUMMONS TO ATTEND CASE PROGRESSION HEARING

AN CHÚIRT CHUARDA

THE CIRCUIT COURT

CIRCUIT

COUNTY OF

20.. No....

BETWEEN

A.B.,

Plaintiff /Applicant

AND

C.D., Defendant/Respondent

Take Notice that these proceedings will appear before the County Registrar on the.... day of..... 20..... at..... for the purposes of a case progression hearing, at which

*[You and your solicitor are required to attend]

* [You are required to attend]

[Insert particulars of any direction made by the County Registrar regarding any documentation to be exchanged, filed or produced by the parties]

Dated

(Signed) _____
County Registrar

To:..... (Plaintiff /Applicant /Solicitor for the Plaintiff /Applicant)*

And to:..... (Defendant/Respondent /Solicitor for the Defendant/Respondent)*

* Insert as appropriate

FORM 8B

REPORT OF COUNTY REGISTRAR PURSUANT TO ORDER 19A,
RULE 8 IN RESPECT OF DELAY OR DEFAULT

AN CHÚIRT CHUARDA

THE CIRCUIT COURT

CIRCUIT

COUNTY OF

20.. No....

BETWEEN

A.B.,

Plaintiff /Applicant

AND

C.D., Defendant/Respondent

[Set out in detail delay or default including all relevant dates]

I hereby report to the Honourable Court accordingly

Dated

Signed.....

County Registrar

EXPLANATORY NOTE

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

These rules amend the Circuit Court Rules, by the insertion of a new Order 19A to facilitate the supervision by the county registrar, through case progression hearings, of the preparation for trial of various categories of proceedings in the Circuit Court as mentioned in rule 1(2) of that Order.

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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