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Circuit Court Rules

Order: 57A

Equal Status Acts 2000 to 2004 - S.I. No. 349 of 2006

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 4th day of May, 2006.

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

Katherine Delahunty : Fergal Foley : Patrick Hunt : Gerard J. Doherty : Joe Deane : Noel Rubotham

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

Dated this 30th day of June, 2006

Michael McDowell

MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM

1. These Rules, which may be cited as the Circuit Court Rules (Equal Status Acts 2000 to 2004) 2006, shall come into operation

on the 28th day of July 2006.

2. These Rules shall be construed together with the Circuit Court Rules 2001 to 2006.
3. The Circuit Court Rules are hereby amended by the insertion, immediately following Order 57, of the following Order.

“ORDER 57A

EQUAL STATUS ACTS, 2000 to 2004

Rule One - DEFINITION

In this Order "the Act" means the Equal Status Act, 2000 (No. 8 of 2000), and "the Authority" means the Equality Authority as provided for in Part I of the Act and "the Director" means the Director of the Equality Tribunal as provided for in Part I of the Act and "the Court" means the Circuit Court and "the Minister" means the Minister for Justice, Equality and Law Reform. "equality officer" shall be construed in accordance with Section 20 of the Act.

Rule Two - TRANSITIONAL

All applications served or proceedings taken 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 an application made or proceedings taken in accordance with these Rules.

Rule Three - APPEALS AGAINST DECISIONS OF THE DIRECTOR (SECTION 21 OF THE ACT)

1. An appeal pursuant to section 21(7A) of the Act from a decision of the Director on an application by a complainant for an extension of time under subsections (3) or (7) of that section shall be made within the period specified in subsection (7A) of that section by originating Motion on Notice to the Director and to the complainant or respondent, as the case may be (in this Rule referred to as "the other party"), which Notice shall be entitled in the matter of section 21(7A) of the Act, shall specify the grounds of appeal and shall be grounded on an affidavit exhibiting a certified copy of the decision appealed against and setting out any relevant facts.

2. Notice of the appeal shall be given to the Director and the complainant or respondent, as the case may (in this Rule referred to as "the other party"), by service of the Notice of Motion and grounding affidavit no later than 10 days prior to the return date set out in the Motion either in accordance with the provisions as to service of Civil Bills and other documents contained in Order 11 of these Rules or by being served upon the Director and the other party, or where such other party was represented by a solicitor before the Director, upon such solicitor; and service of the appeal or any other document upon such solicitor, or delivery of same at his office, or sending same to him by

prepaid post to such office shall be deemed to be good service upon the party for whom such solicitor acts upon the day when the same is so delivered or served, or upon which in the ordinary course of postage it would be delivered.

Rule Four - APPEALS AGAINST DECISIONS OF THE DIRECTOR (SECTION 22 OF THE ACT)

1. An appeal pursuant to section 22(2) of the Act from a decision of the Director under section 22(1) of the Act dismissing a claim shall be made by originating Motion on Notice to the Director and to the respondent, which Notice shall be entitled in the matter of section 22(2) of the Act, shall specify the grounds of appeal and shall be grounded on an affidavit exhibiting a certified copy of the decision appealed against and setting out any relevant facts.

2. Notice of the appeal shall be given to the Director and the respondent by service of the Notice of Motion and grounding affidavit no later than 10 days prior to the return date set out in the Motion either in accordance with the provisions as to service of Civil Bills and other documents contained in Order 11 of these Rules or by being served upon the Director and the respondent or where such respondent was represented by a solicitor before the Director, upon such solicitor; and service of the appeal or any other document upon such solicitor, or delivery of same at his office, or sending same to him by prepaid post to such office shall be deemed to be good service upon the respondent upon the day when the same is so delivered or served, or upon which in the ordinary course of postage it would be delivered.

Rule Five - APPLICATIONS UNDER SECTION 23(3) OF THE ACT

An application by the Authority for an injunction or other relief pursuant to section 23(3) of the Act shall be instituted by the issue of a Civil Bill in Form 2B of the Schedule of Forms annexed hereto or such modification thereof as may be appropriate.

Rule Six - APPEALS AGAINST DECISIONS OF THE DIRECTOR (SECTION 28 OF THE ACT)

1. An appeal pursuant to section 28 of the Act shall be made by way of originating Motion on Notice which shall set out the grounds upon which the appellant is relying for the reliefs sought. Such applications shall be in accordance with Form 36F annexed hereto, as appropriate.

2. Notice of the appeal shall be given to the complainant or respondent, as the case may be (in this Rule referred to as "the other party"), and to the Director as appropriate, by service of the Notice of Motion no later than 10 days prior to the return date set out in the Motion either in accordance with the provisions as to service of Civil Bills and other documents contained in Order 11 of these Rules or by being served upon the complainant or respondent, as the case may be (in this Rule referred to as "the other party"), or where such other party was represented by a solicitor before the Director, upon such solicitor, and upon the Director as appropriate; and service of the Notice of Motion or any other document upon such solicitor, or delivery of same at his office, or sending same to him by prepaid post to such office shall be deemed to be good service upon the party for whom such solicitor acts upon the day when the

same is so delivered or served, or upon which in the ordinary course of postage it would be delivered. The Motion shall be listed for mention only on the return date set out therein at which time a date for hearing shall be fixed by the Court.

3. The following documents shall, as appropriate, be filed with the application:

(i) a certified copy of the decision of the Director with the date of the decision thereon;

(ii) certified copies of all notices, pleadings, documents and particulars provided by

either party to the Director;

(iii) any other relevant documentation.

4. The appeal shall contain a statement of the grounds upon which the plaintiff intends to rely in support of the appeal.

5. The appeal shall be dated, and bear the name, address and description of the appellant and shall be signed by his solicitor, if any, and, if none, by the appellant.

6. Upon the application on notice of any party the Judge may order any other party to deliver full and better particulars of any matters stated in the appeal, or to deliver copies of any documents referred to therein.

7. Save by special leave of the Court or save as provided for by the Act, the appeal shall be heard upon oral evidence.

Rule Seven - ENFORCEMENT OF DECISIONS AND MEDIATED SETTLEMENTS

Applications for relief by way of enforcement pursuant to section 31 of the Act shall be made by way of originating Motion on Notice grounded upon Affidavit sworn by the complainant or the Chief Executive Officer of the Authority or an appropriate officer duly authorised by him or, in the case of a settlement, the respondent, as appropriate, which said Affidavit shall exhibit

(a) a certified copy of the decision of the Director or of the written record of the terms of settlement as appropriate;

(b) evidence of the date of the decision or the date of the written record of the settlement as appropriate; and shall set out:

(i) the name, address and description of the person against whom the relief is sought;

- (ii) an averment that there has not been any appeal pursuant to section 28 of the Act;
- (iii) any facts relevant to the alleged failure to comply with the terms of a decision or with the terms of settlement, whether in whole or in part, as appropriate;
- (iv) the consent of the complainant, where appropriate;
- (v) any other relevant facts.

Rule Eight - PRODUCTION OF DOCUMENTS AND SUPPLY OF INFORMATION

Applications by the Director or an equality officer for relief pursuant to section 35 of the Act shall be made by way of originating Motion on Notice grounded upon Affidavit sworn by the Director or by an appropriate officer duly authorised by the Director or by an equality officer which said affidavit shall, as appropriate, exhibit all documentation relating to requirements made under section 33(2)(b) and/or section 34(1)(a) of the Act, as appropriate; and shall set out

- (i) the name, address and description of the person against whom the relief is sought;
- (ii) the applicable requirements under section 33(2)(b) and/or section 34(1) of the Act of (as the case may be) both of those provisions;
- (iii) the nature of the failure to comply with the provision or provisions concerned alleged;
- (iv) any other relevant facts.

Rule Nine - VENUE

Proceedings under the Act shall, in accordance with section 45 of the Act, be brought in the County where the defendant or respondent (as the case may be) ordinarily resides or carries on any profession, business or occupation.

Rule Ten - EVIDENCE

Save by special leave of the Court and subject to Rule Six hereof, all proceedings under the Act other than proceedings for relief pursuant to section 23(3) of the Act shall only be heard upon Affidavit.

Rule Eleven - COSTS

The Court may make such Order as to costs as may be appropriate.”

4. The Form contained in the Schedule hereto shall be inserted in the Schedule of Forms to the Circuit Court Rules 2001 to 2006, as [Form 36F](#), immediately after Form 36E.

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