



STATUTORY INSTRUMENTS.

S.I. No. 757 of 2020



RULES OF THE SUPERIOR COURTS (ORDER 95) 2020

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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, the Courts of Justice Act, 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), 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 14th day of March, 2019.

George Birmingham

Elizabeth Dunne

Michael Peart

Teresa Pilkington

Stuart Gilhooly

Noel Rubotham

John Mahon

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

Dated this 16th day of December 2020.

HELEN MCENTEE

Minister for Justice

S.I. No. 757 of 2020

RULES OF THE SUPERIOR COURTS (ORDER 95) 2020

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Order 95) 2020, shall come into operation on the 11th day of February 2021.

(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 2020.

2. The Rules of the Superior Courts are amended by the substitution for Order 95 of the Order set out in the Schedule.

Schedule

“Order 95

Professional Disciplinary Regimes

I. Applications and appeals concerning registration decisions

1.(1) The following proceedings shall be brought by originating notice of motion:

- (i) appeals to the Court under the Veterinary Practice Act 2005, section 42(4), 43(11), 44(5), 45(9), 47(4), 49(6), 95(5), 95A(8), 96(4), 96A(6) or 96B(9);
- (ii) appeals to the Court under the Health and Social Care Professionals Act 2005, section 44(1);
- (iii) appeals to the Court under the Medical Practitioners Act 2007, section 54(3);
- (iv) applications to the Court under the Dentists Act 1985, section 27(5), 30(5) or 32(6);
- (v) appeals to the Court under the Nurses and Midwives Act 2011, section 52(3);
- (vi) appeals to the Court under the Pharmacy Act 2007, section 21(2);
- (vii) applications to the Court under the Teaching Council Act 2001, section 31(8) or section 33(19);
- (viii) appeals to the Court under the European Union (Recognition of Professional Qualifications) Regulations 2017, regulation 83 or under or by virtue of regulation 96 of those Regulations.

(2) The originating notice of motion shall be issued within the time limited by the particular section of the statute under which the appeal (or application for cancellation or annulment of a decision) is brought, and shall be served on the Council, Board or Committee against whose decision the appeal (or application) concerned is brought. The said Council, Board or Committee shall be named as respondent to the originating notice of motion.

(3) The originating notice of motion shall state the nature of the decision against which the appeal (or application) is brought, the grounds of the appeal and the nature of the direction or order sought from the Court, and shall be verified by an affidavit of the appellant or applicant.

II. Applications and appeals begun inter partes concerning fitness to practice or other disciplinary decisions

2.(1) The following proceedings shall be brought by originating notice of motion:

- (i) appeals to the Court under the Veterinary Practice Act 2005, section 80(3), 83(5) or 84(3);
- (ii) applications or appeals to the Court under the Health and Social Care Professionals Act 2005, section 69(1) or 75(1);
- (iii) appeals to the Court under the Medical Practitioners Act 2007, section 75(1) or 83(1);
- (iv) applications to the Court under the Dentists Act 1985, section 39(3), 40(3) or 42(3);
- (v) applications to the Court under the Nurses Act 1985, section 39(3), 40(3), 42(3) and 44(1);
- (vi) appeals to the Court under the Nurses and Midwives Act 2011, section 73(1) or 81(1);
- (vii) applications to the Court under the Pharmacy Act 2007, section 45(1), or section 51(1),
- (viii) applications to the Court under the Teaching Council Act 2001, section 44(3).

(2) An appeal to the Court on a point of law from the District Court under the Veterinary Practice Act 2005, section 82(9) shall be brought by originating notice of motion, and thereafter conducted and determined as if Order 84C applied to such appeal.

(3) Subject to sub-rule (4), an originating notice of motion under this rule shall be issued within the time limited by the particular section of the relevant statute and served on the Council or Board against whose decision the appeal or application concerned is brought and the said Council or Board shall be named as respondent to the originating notice of motion.

(4) In the case of an application under the Nurses Act 1985, section 44(1) or the Pharmacy Act 2007, section 45(1), the registered person in respect of whom relief is sought shall be named as respondent to the originating notice of motion and the originating notice of motion shall be served on the said registered person.

(5) The originating notice of motion shall be verified by an affidavit of the appellant or applicant, setting out the material facts on which the appellant or applicant relies.

III. Applications and appeals begun ex parte concerning fitness to practice or other disciplinary decisions

3.(1) The following applications to the Court shall be brought by originating motion *ex parte*:

- (i) applications by the Veterinary Council, under the Veterinary Practice Act 2005, section 80(5), 83(7) or 84(5);
- (ii) applications by the Health and Social Care Professionals Council, under the Health and Social Care Professionals Act 2005, section 60(1) or 70(1);
- (iii) applications by the Medical Council under the Medical Practitioners Act 2007, section 60(1), 60(1A) or 76(1);
- (iv) applications by the Dental Council, under the Dentists Act 1985, section 39(4), 40(4), 42(4) or 44(5);
- (v) applications by the Nursing and Midwifery Board of Ireland under the Nurses Act 1985, section 39(4), 40(4) and 42(4);
- (vi) applications by the Nursing and Midwifery Board of Ireland, under the Nurses and Midwives Act 2011, section 58(1) or 74(1);
- (vii) applications by the Council of the Pharmaceutical Society of Ireland under the Pharmacy Act 2007, section 52(1) or 61(3);
- (viii) applications by the Teaching Council under the Teaching Council Act 2001, section 44(4), 44(5) or 47(1);
- (ix) an application to the Court for leave to appeal on a point of law from the District Court under the Veterinary Practice Act 2005, section 82(9).

(2) The originating motion shall set forth in a summary form the material facts upon which the decision or application is based and shall state the nature of the decision or, as the case may be, the grounds of the application, and shall be verified by an affidavit of the Registrar or other officer nominated for that purpose by the relevant Council or Board.

(3) Every originating motion under this rule shall be entitled in the matter of the relevant Act and on the application of the Council or Board by which the same is brought.

(4) On the hearing of any application in accordance with sub-rule (1), the Court may give directions as to the service of notice of the application on any other person, including mode of service and the time allowed for such service (and the Court may for that purpose adjourn the hearing of such application to a date specified).

IV. Applications to compel evidence at hearings

4.(1) Save where otherwise permitted by the Court, the following applications shall be brought by originating notice of motion in accordance with Order 84B:

- (i) applications by the Fitness to Practise Committee of the Veterinary Council, under the Veterinary Practice Act 2005, section 78(8)(c);
- (ii) applications to the Court under the Health and Social Care Professionals Act 2005, section 59(8);
- (iii) applications by the Medical Council under the Medical Practitioners Act 2007, section 66(7);
- (iv) applications by the Nursing and Midwifery Board of Ireland, under the Nurses and Midwives Act 2011, section 64(7);
- (v) applications by the Council of the Pharmaceutical Society of Ireland under the Pharmacy Act 2007, section 43(8).

V. Appeals concerning approval of education or training bodies, prescribing of qualifications or suitability of premises

5.(1) Appeals to the Court under:

- (i) the Veterinary Practice Act 2005, section 65(8);
- (ii) the Medical Practitioners Act 2007, section 90(1) or 92(1), or
- (ii) the Nurses and Midwives Act 2011, section 86(1),

shall be brought by originating notice of motion in accordance with Order 84C.

(2) An appeal to the Court on a point of law from the District Court under the Veterinary Practice Act 2005, section 113(7) shall be brought by originating notice of motion, and thereafter conducted and determined as if Order 84C applied to such appeal.

(3) An application to the Court for leave to appeal on a point of law from the District Court under the Veterinary Practice Act 2005, section 113(7) shall be brought by originating motion *ex parte*.

(4) The originating notice of motion or originating motion under sub-rule (2) or (3) shall state succinctly the point of law which is the subject of the appeal or proposed appeal and the grounds of the appeal and shall be verified by an affidavit.

VI. General

6. Service of an originating notice of motion or any document upon a Council, Board or Committee referred to in this Order may be effected by serving the same on the secretary or registrar (as the case may be) of such Council, Board or Committee or by sending the same by registered post addressed to such secretary or registrar at the offices of such Council, Board or Committee.

7. The evidence upon the hearing of any appeal or application to which this Order applies shall be by affidavit, except in so far as the Court may direct oral evidence to be given. The Court may require any notice, affidavit, declaration, or other document used or laid in evidence before the Council, Board or Committee in relation to whose decision the appeal or application is brought, or a transcript or other record of any oral evidence given before such Council, Board or Committee, to be produced or made available to the Court by any party in such manner as the Court may direct.”

EXPLANATORY NOTE

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

These rules amend Order 95 of the Rules of the Superior Courts by regulating the procedure for applications to the High Court in respect of various statutory professional disciplinary regimes and by addressing amendments to the existing regimes as well as the introduction of new statutory regimes.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Teil: 076 110 6834
r-post: publications@opw.ie

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