



STATUTORY INSTRUMENTS.

S.I. No. 168 of 2018



RULES OF THE SUPERIOR COURTS (ORDER 42C) 2018

RULES OF THE SUPERIOR COURTS (ORDER 42C) 2018

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, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972) and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 16th day of November 2017.

Frank Clarke
Sean Ryan
Peter Kelly
Elizabeth Dunne
Mary Finlay Geoghegan
Michael Peart
Anthony Barr
Stuart Gilhooly
Michael Kavanagh
Noel Rubotham
John Mahon

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

Dated this 15th day of May 2018.

CHARLES FLANAGAN

Minister for Justice and Equality

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 22nd May, 2018.*

S.I. No. 168 of 2018

RULES OF THE SUPERIOR COURTS (ORDER 42C) 2018

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Order 42C) 2018, shall come into operation on the 10th day of June 2018.

(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 2018.

2. The Rules of the Superior Courts are amended:

(i) by the substitution for rule 1 of Order 42C of the following rule:

“1. In this Order—

“2008 Regulations” means the European Communities (European Order for Payment) Regulations 2008 (S.I. No. 525 of 2008) as amended by the European Communities (European Small Claims Procedure and European Order for Payment) (Amendment) Regulations 2017 (S.I. 312 of 2017);

“European order for payment” means an order for payment under the European order for payment procedure referred to in Regulation No. 1896/2006;

“Member State” means a Member State of the European Union, with the exception of Denmark;

“Member State of origin” and “court of origin” each has the same meaning as in Article 5 of Regulation No. 1896/2006;

“Regulation No. 1896/2006” means Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, OJ L 399/1 of 30 December 2006, and corrigendum OJ L 18/11 of 25 January 2007, as amended by Regulation (EC) No. 2015/2421 of the European Parliament and of the Council of 16 December 2015, OJ L 341 of 24 December 2015;

references in this Order to any form prescribed by or in any Annex to Regulation No. 1896/2006 include reference to such forms as amended or substituted, and to any other forms for the time being prescribed for use in connection with Regulation No. 1896/2006.”;

(ii) by the substitution for sub-rule (11) of rule 3 of Order 42C of the following rule:

“(11) Where

- (a) a statement of opposition is entered to a European order for payment in accordance with Regulation No. 1896/2006, and
- (b) the claimant has not explicitly requested in accordance with Article 17(1) of Regulation No. 1896/2006 that the proceedings be terminated in that event, and either:
 - (i) the claimant has requested that any appropriate national civil procedure be applied to his or her claim in that event, or
 - (ii) the claimant has not indicated which of either the European Small Claims Procedure or any appropriate national civil procedure he requests be applied to his or her claim, in that event,

the Master shall proceed in accordance with Regulation 9(2) of the 2008 Regulations and shall cause the claimant to be notified that the defendant has lodged a statement of opposition and, as the case may be:

- (I) that the proceedings have been remitted to the Circuit Court or to the District Court in accordance with Regulation 9(2) of the 2008 Regulations, or
- (II) that the proceedings have been remitted for plenary hearing by the Court.

(12) Where:

- (a) a statement of opposition is entered to a European order for payment in accordance with Regulation No. 1896/2006, and
- (b) the claimant has not explicitly requested in accordance with Article 17(1) of Regulation No. 1896/2006 that the proceedings be terminated in that event, and
- (c) the claimant has requested that the European Small Claims Procedure as laid down in Regulation (EC) No 861/2007 be applied if a statement of opposition is entered,

the Master shall consider in accordance with Regulation 9(3) of the 2008 Regulations whether the European Small Claims Procedure is applicable to the claim, and:

- (i) where he is satisfied that the European Small Claims Procedure is applicable to the claim, remit the proceedings to the District Court in accordance with Regulation 9(4) of the 2008 Regulations to be prosecuted in accordance with the European Small Claims Procedure and cause the claimant to be notified accordingly, or

(ii) where he is not satisfied that the European Small Claims Procedure is applicable to the claim:

(I) if the claimant has explicitly requested, in accordance with Article 17(2) of Regulation No. 1896/2006 that the transfer referred to in Article 17(2) of Regulation No. 1896/2006 not be made in that event, take no further action and cause the claimant to be notified accordingly, or

(II) where paragraph (I) does not apply, proceed in accordance with Regulation 9(2) of the 2008 Regulations and shall cause the claimant to be notified accordingly that the defendant has lodged a statement of opposition and, as the case may be:

(A) that the proceedings have been remitted to the Circuit Court or to the District Court or

(B) that the proceedings have been remitted for plenary hearing by the Court.

(13) Notifications for the purposes of Article 17(5) of Regulation No. 1896/2006 referred to in sub-rule (12) shall be made by one of the methods referred to in rule 3(1), and shall be in Form No. 4 in Appendix F, Part IV.”, and

(iii) by the substitution for Form No. 4 in Appendix F, Part IV of the form bearing the like number set out in the Schedule.

SCHEDULE

No. 4 O. 42C, r. 3(11)

HIGH COURT

Record number:

Regulation (EC) No. 1896/2006

NOTIFICATION OF RECEIPT OF STATEMENT OF OPPOSITION TO A
EUROPEAN ORDER FOR PAYMENT AND
TRANSFER/TERMINATION OF PROCEEDINGS

Between

A.B.

Claimant

and
C.D.

Defendant

To: the claimant

TAKE NOTICE that a statement of opposition has been entered by the defendant to the above European order for payment on the.... day of..... 20...

As you have not explicitly requested that the proceedings be terminated in that event,

*the proceedings have been transferred to ordinary civil proceedings before the High Court *[because the Master of the High Court considers that the European Small Claims Procedure is not applicable to your claim].

*the proceedings have been remitted to the Circuit Court (..... Circuit) in accordance with Regulation 9(2) of the European Communities (European Order for Payment) Regulations 2008 (S.I. No. 525 of 2008) *[because the Master of the High Court considers that the European Small Claims Procedure is not applicable to your claim].

*the proceedings have been remitted to the District Court (District Court Area of....., District No.....) in accordance with Regulation 9(2) of the European Communities (European Order for Payment) Regulations 2008 (S.I. No. 525 of 2008) *[because the Master of the High Court considers that the European Small Claims Procedure is not applicable to your claim].

*the Master of the High Court considering that the European Small Claims Procedure is applicable to your claim, the proceedings have been remitted to the District Court (District Court Area of....., District No.....) in accordance

with Regulation 9(4) of the European Communities (European Order for Payment) Regulations 2008 (S.I. No. 525 of 2008) to be prosecuted in accordance with the European Small Claims Procedure.

*the Master of the High Court considering that the European Small Claims Procedure is not applicable to your claim, having regard to your request, the proceedings have been terminated.

Dated the..... day of..... 20....

Signed.....

Registrar High Court Central Office

*delete whichever inapplicable

EXPLANATORY NOTE

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

These Rules amend Order 42A of the Rules of the Superior Courts and substitute a new Form No. 4 in Appendix F, Part IV of those Rules for the existing Form No. 4, to facilitate the operation of Regulation 1896 of 2006 (Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure), as amended by the European Communities (European Small Claims Procedure and European Order for Payment) (Amendment) Regulations 2017 (S.I. 312 of 2017).

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