



STATUTORY INSTRUMENTS.

S.I. No. 328 of 2019

CIRCUIT COURT RULES (PROOF OF FOREIGN PUBLIC DOCUMENTS
AND TRANSLATIONS) 2019

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We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, 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), section 27 of the Courts (Supplemental Provisions) Act 1961, 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, with the concurrence of the Minister for Justice and Equality, make the annexed Rules of Court.

Dated this 20 day of March 2019.

Signed: RAYMOND GROARKE

Chairman of the Circuit Court Rules Committee

Jacqueline Linnane

Fiona Duffy Coady

Keith Walsh

Sabina Purcell

Mairead Ahern

Noel Rubotham

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

Dated this 1st day of July 2019.

Signed: CHARLES FLANAGAN

Minister for Justice and Equality

S.I. No. 328 of 2019

CIRCUIT COURT RULES (PROOF OF FOREIGN PUBLIC DOCUMENTS AND TRANSLATIONS) 2019

1. (1) These Rules, which may be cited as the Circuit Court Rules (Proof of Foreign Public Documents and Translations) 2019, shall come into operation on the 1st day of August 2019.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2019.

(3) The Circuit Court Rules 2001 to 2019 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2019.

2. The Circuit Court Rules are amended by the substitution in Order 23 for rules 5 to 9 inclusive of the following rules:

“Proof of Foreign Public, Diplomatic and Consular Documents of Member States of the European Union”

5. (1) In this rule:

“Central Authority” means the Central Authority of a Member State of the European Union designated in accordance with Article 15 of the 2016 Regulation to fulfil functions relating to the application of the 2016 Regulation;

the “2016 Regulation” means Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012;

“public documents” has the same meaning as in Article 3 of the 2016 Regulation.

(2) A document which purports to be a public document to which the 2016 Regulation applies (or a certified copy, within the meaning of Article 3(7) of the 2016 Regulation, thereof) shall, without proof of any formal procedure for certifying the authenticity of a signature, the capacity in which the person signing the document has acted, or where appropriate, the identity of the seal or stamp which it bears, be admissible in evidence as such if otherwise admissible.

(3) In any case in which the Court has a reasonable doubt as to the authenticity of a public document or certified copy produced in accordance with sub-rule (2), it may direct the taking of any step

permitted by Article 14 of the 2016 Regulation to dispel such doubt. In any such case the Court shall in its directions set out the grounds upon which they are based.

5A. (1) In this rule:

“Central Authority” means the Central Authority of a Contracting State designated in accordance with Article 5 of the 1987 Convention;

the “1987 Convention” means the Convention Abolishing the Legalisation of Documents in the Member States of the European Communities done at Brussels on the 25th May, 1987;

a “Contracting State” means a State which is a party to the 1987 Convention other than the State and includes a State which has made a declaration pursuant to Article 6(3) of the 1987 Convention;

“document” means and includes any document or documents which are public documents within the meaning of Article 1 of the 1987 Convention, but does not include a “public document” within the meaning of rule 5, to which the 2016 Regulation applies.

(2) A document which purports to be a public document within the meaning of Article 1 of the 1987 Convention shall, without proof of any formal procedure for certifying the authenticity of a signature, the capacity in which the person signing the document has acted, or where appropriate, the identity of the seal or stamp which it bears, be admissible in evidence as such if otherwise admissible.

(3) In any case in which the Court has serious doubts, with good reason, in relation to any document which is produced as to the authenticity of the signature, the capacity in which the person signing the document has acted, or the identity or seal of the stamp which it bears, it may direct that such information as it thinks relevant be requested in accordance with Article 4 of the 1987 Convention from the Central Authority of the State from which the act or document emanated. In any such case the Court shall in its directions set out the grounds upon which they are based.

(4) The provisions of rule 4 shall apply mutatis mutandis, where applicable and to the extent required in relation to the taking of judicial notice of the seal or signature as the case may be, of any diplomatic or consular representative or agent, judge, court or notary public lawfully authorised to administer oaths in any of the Contracting States.

(5) This rule shall apply to any document to which the 1987 Convention (but not the 2016 Regulation) applies and rules 5, 6 and 7 shall not apply thereto.

Proof of Foreign Diplomatic and Consular Documents (London Convention 1968)

6. (1) In this rule:

the “1968 Convention” means the European Convention on the Abolition of Legalisation of Documents Executed by Diplomatic Agents or Consular Officers done at London on the 7th June, 1968;

a “Contracting State” means a State which is a party to the 1968 Convention other than the State;

“document” means and includes any document or documents to which Article 2 of the 1968 Convention applies.

(2) document which purports to have been executed by the diplomatic agents or consular officers of a Contracting State shall, without proof of any formality used to certify the authenticity of the signature on such a document, the capacity in which the person signing such a document has acted, and where appropriate, the identity of the seal or stamp which such document bears, be admissible without such proof if otherwise admissible.

(3) The Court may, where necessary, give such directions as to the verification of the authenticity of any document as it thinks fit.

(4) This rule shall not apply to any document to which rule 5 or rule 5A applies.

Proof of Foreign Public Documents (Hague Convention 1961)

7. (1) In this rule:

an “apostille” means an apostille issued in pursuance of the 1961 Convention and conforming to the model set out in the annex to the 1961 Convention;

the “1961 Convention” means the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents done at The Hague on the 5th October, 1961;

a “Contracting State” means a State which is a party to the 1961 Convention other than the State.

(2) A document which purports to be an apostille duly issued and executed in a Contracting State in accordance with the 1961 Convention shall without further proof be deemed to be such and shall be admissible as evidence of the facts stated therein unless the contrary is shown.

(3) This rule shall not apply to any document to which rule 5, rule 5A or rule 6 applies.

Proof of Foreign Public Documents (other cases)

8. A foreign public document to which the provisions of rules 5, 5A, 6 and 7 do not apply may be admitted into evidence on the Court being satisfied as to its authenticity.

Foreign language documents

9. (1) Where:

- (a) a document (the “foreign language document”) is not in one of the official languages of the State and
- (b) the content of the foreign language document is intended to be relied upon in proceedings in the Court and
- (c) the foreign language document shall be exhibited to an affidavit filed or lodged in the Office for the purposes of the proceedings, then unless the Court otherwise permits:
 - (i) a translation in writing into one of the official languages of the State of the foreign language document shall be produced by a translator who is suitably qualified for the purpose, and
 - (ii) the translator shall exhibit the foreign language document and the original translation to an affidavit which shall verify his qualifications as a translator and confirm that the translation is accurate and the affidavit shall be filed or lodged at the same time as the foreign language document, or
 - (iii) the translator shall produce the foreign language document and the original translation at the hearing and shall verify on oath his qualifications as a translator and that the translation is accurate.

(2) Sub-rule (1) shall not apply to a public document referred to in Article 6(1)(b) of Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012 which is accompanied, in accordance with the conditions set out in that Regulation, by a multilingual standard form, provided that the Court considers that the information included in the multilingual standard form is sufficient.”

EXPLANATORY NOTE

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

These Rules amend Order 23 of the Circuit Court Rules to facilitate the operation of Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6th July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012

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