



STATUTORY INSTRUMENTS.

S.I. No. 421 of 2019



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

S.I. No. 421 of 2019

District Court (Proof of Foreign Public Documents and Translations) Rules
2019

The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972) and section 24 of the Interpretation Act 2005, and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 29th day of April 2019.

Rosemary Horgan Chairperson

Patrick Durcan

Shane McCarthy

Riobard Pierse

Edel Haughton

Noel A Doherty

Michelle Johnston

I concur in the making of the foregoing rules

Dated this 1st day of August 2019

CHARLES FLANAGAN,
Minister for Justice and Equality.

S.I. No. 421 of 2019

District Court (Proof of Foreign Public Documents and Translations) Rules
2019

The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972) and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court:-

1 (1) These Rules, which shall come into operation on the 2nd day of September 2019, may be cited as the District Court (Proof of Foreign Public Documents and Translations) Rules 2019.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2019.

2. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended by the insertion in Order 46, immediately following rule 8, of the following rules:

“3 — FOREIGN PUBLIC DOCUMENTS AND FOREIGN
LANGUAGE DOCUMENTS

9. Any affidavit for use in proceedings in the Court may be taken outside Ireland:

- (i) before any Irish diplomatic or consular representative or agent exercising such functions in the country concerned, or
- (ii) before any notary public lawfully authorised to administer oaths in the country concerned, or
- (iii) in any part of the European Union, before any notary public or other person authorised to administer oaths in such place;

and judicial notice shall be taken of the seal or signature, as the case may be, of any such diplomatic or consular representative or agent, notary public or other person attached, appended or subscribed to any such affidavit, or to any document exhibited to any such affidavit.

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

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 9th August, 2019.*

10 (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) is, without proof of:

- (i) any formal procedure for certifying the authenticity of a signature,
- (ii) the capacity in which the person signing the document has acted, or
- (iii) where appropriate, the identity of the seal or stamp which it bears, 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), the Court 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 must in its directions set out the grounds upon which the directions are based.

11 (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 10, 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 is, without proof of:

- (i) any formal procedure for certifying the authenticity of a signature,
- (ii) the capacity in which the person signing the document has acted,
- (iii) or where appropriate, the identity of the seal or stamp which it bears,

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 the directions are based.

(4) This rule applies to any document to which the 1987 Convention (but not the 2016 Regulation) applies and rules 10, 12 and 13 do not apply in such a case.

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

12 (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, other than Ireland, which is a party to the 1968 Convention;

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

(2) A document which purports to have been executed by the diplomatic agents or consular officers of a Contracting State is, without proof of:

- (i) any formality used to certify the authenticity of the signature on such a document, or
- (ii) the capacity in which the person signing such a document has acted, or
- (iii) where appropriate, the identity of the seal or stamp which such document bears,

admissible in evidence without such proof if otherwise admissible in evidence.

(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 10 or rule 11 applies.

Proof of Foreign Public Documents (Hague Convention 1961)

13 (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, other than Ireland, which is a party to the 1961 Convention other.

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

(3) This rule does not apply to any document to which rule 10, rule 11, or rule 12 applies.

Proof of Foreign Public Documents (other cases)

14. A foreign public document to which the provisions of rules 10, 11, 12 and 13 do not apply may be admitted into evidence on the Court being satisfied as to its authenticity.

Foreign language documents

15 (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 is exhibited to an affidavit lodged with the Clerk for the purposes of the proceedings,

then unless the Court otherwise permits or directs:

- (i) a translation in writing into one of the official languages of the State of the foreign language document must be produced by a translator who is suitably qualified for the purpose, and
 - (ii) the translator must exhibit the foreign language document and the original translation to an affidavit which verifies his qualifications as a translator and confirms that the translation is accurate, and that affidavit must be lodged with the Clerk at the same time as the foreign language document, or
 - (iii) the translator must produce the foreign language document and the original translation at the hearing and must verify on oath his qualifications as a translator and that the translation is accurate.
- (2) Sub-rule (1) does 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 46 , District Court Rules, to make provision for the admissibility in evidence of foreign public documents and for the authentication of foreign language documents in connection with civil proceedings in the District Court.

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