



STATUTORY INSTRUMENTS.

S.I. No. 429 of 2018

CIRCUIT COURT RULES (PROOF OF FOREIGN PUBLIC
DOCUMENTS AND TRANSLATIONS) 2018

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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, 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 2nd day of May 2018.

Jacqueline Linnane
Sarah Berkeley
Fiona Duffy Coady
Keith Walsh
Rita Considine
Noel Rubotham

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

Dated this 3rd day of October 2018.

Signed: CHARLES FLANAGAN,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 16th October, 2018.*

S.I. No. 429 of 2018

CIRCUIT COURT RULES (PROOF OF FOREIGN PUBLIC DOCUMENTS AND TRANSLATIONS) 2018

1. (1) These Rules, which may be cited as the Circuit Court Rules (Proof of Foreign Public Documents and Translations) 2018, shall come into operation on the 31st day of October 2018.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2018.

(3) The Circuit Court Rules 2001 to 2017 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2018.

2. The Circuit Court Rules are amended:

(i) by the insertion in Order 23 immediately following rule 3 of the following rules:

“Affidavits etc taken in foreign countries

4. All affidavits, declarations and affirmations in causes or matters pending in the Court may be taken in any foreign country or place before any Irish diplomatic or consular representative or agent exercising his functions in that country or place or, when there is no such representative or agent or no such representative or agent conveniently near to the deponent in such country or place, before any notary public lawfully authorised to administer oaths in that country or place, or in any part of the United Kingdom, before any notary public or other person authorised to administer oaths in such place; and the Judges and officers of the Court shall take judicial notice 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, declaration or affirmation, or to any other deed or document.

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 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.

(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 applies and rules 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) A 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 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 or rule 6 applies.

Proof of Foreign Public Documents (other cases)

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

Foreign language documents

9. 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.”

3 October 2018.

CHARLES FLANAGAN,
Minister for Justice and Equality.

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 provide for the various methods of authentication of documents completed in or issued from foreign countries.

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