



STATUTORY INSTRUMENTS.

S.I. No. 487 of 2012



RULES OF THE SUPERIOR COURTS (AFFIDAVITS) 2012

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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, by virtue of the powers conferred upon us by The Courts of Justice Act 1924, section 36, and 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 12th day of July, 2012.

Susan Denham

Nicholas Kearns

William McKechnie

Elizabeth Dunne

Paul McGarry

Patrick Groarke

Patrick O'Connor

Noel Rubotham

John Mahon

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

Dated this 1st day of December, 2012.

ALAN SHATTER,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 7th December, 2012.*

S.I. No. 487 of 2012

RULES OF THE SUPERIOR COURTS (AFFIDAVITS) 2012

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Affidavits) 2012, shall come into operation on the 28th day of December, 2012.

(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 2012.

2. The Rules of the Superior Courts are amended by the substitution for rule 14 of Order 40 of the following rules:

“13A. (1) Subject to rule 14, where an intending deponent is not capable of making an affidavit in one of the official languages of the State, he shall make an affidavit in another language which he understands (in this rule and rules 14 and 14A referred to as a “foreign language affidavit”).

(2) A foreign language affidavit shall be translated into one of the official languages of the State by a translator who is suitably qualified for the purpose.

(3) Where a foreign language affidavit is to be filed or lodged in court, an affidavit of the translator shall (as the case may be) be filed or lodged at the same time in which-

(i) the translator sets out his qualifications as a translator,

(ii) a copy of the foreign language affidavit and the original translation referred to in sub-rule (2) are exhibited, and

(iii) the translator confirms that the translation is accurate.

(4) The original translation referred to in sub-rule (2) shall in addition be filed or lodged with the affidavit of the translator referred to in sub-rule (3).

14. (1) A person taking an affidavit shall certify in the jurat of every affidavit taken by him:

(a) that he personally knows the deponent, or

(b) that the deponent has been identified to him by some person personally known to him and named in the jurat who certifies his personal knowledge of the deponent, or

(c) that the identity of the deponent has been established by him by reference to a relevant document containing a photograph of the deponent before the affidavit was taken,

and in a case to which paragraph (c) applies shall give particulars of the relevant document concerned.

(2) A person taking an affidavit shall, where it appears to him that the affidavit is to be sworn by any person who appears to be illiterate or blind—

(a) ensure that the affidavit is read in his presence to the deponent and that the deponent has fully understood it,

(b) in any case where the deponent appears not to be capable of understanding one of the official languages of the State, ensure that the affidavit is made as a foreign language affidavit in accordance with rule 13A and is read to the deponent by a suitably qualified interpreter in the presence of the person taking the affidavit, and that the deponent has fully understood it, and

(c) certify in the jurat that the affidavit was read in his presence to the deponent (in a case to which paragraph (b) refers, by a suitably qualified interpreter), that the deponent fully understood it and that the deponent made his signature or mark in his presence.

(3) Where a foreign language affidavit is to be filed or lodged in court in a case to which paragraph (b) of sub-rule (2) refers, in addition to the translator's affidavit referred to in rule 13A(3) an affidavit of the interpreter shall (as the case may be) be filed or lodged at the same time in which the interpreter sets out his qualifications as an interpreter, exhibits a copy of the foreign language affidavit and confirms that he read accurately to the deponent the contents of the foreign language affidavit, provided that where the translator and interpreter are one and the same person, a single affidavit may be sworn by that person for the purposes of rule 13A(3) and this sub-rule.

(4) In this rule "relevant document" has the same meaning as in section 2 of the Statutory Declarations Act 1938.

14A. (1) No foreign language affidavit shall be used in evidence in the absence of the affidavit referred to in rule 13A(3).

(2) No affidavit referred to in rule 14(2) shall be used in evidence in the absence of the certificate referred to in paragraph (c) of rule 14(2) and (where applicable) in default of filing of the interpreter's affidavit referred to in rule 14(3), unless the Court is otherwise satisfied that the affidavit was read over to and fully understood by the deponent.

14B. Rules 13A and 14A shall be without prejudice to section 20(3) of the European Arrest Warrant Act 2003."

EXPLANATORY NOTE

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

These rules amend Order 40 of the Rules of the Superior Courts by the insertion of a new rule 13A, the amendment of rule 14 and the insertion of new rules 14A and 14B to specify requirements in relation to the giving of affidavit testimony by deponents with insufficient competence in the Irish or English languages, or by illiterate deponents.

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