



STATUTORY INSTRUMENTS

S.I. No. 31 of 2008



RULES OF THE SUPERIOR COURTS (CAPE TOWN CONVENTION)
2008

(Prn. A8/0237)

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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, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), and 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 31st January 2008.

John L. Murray	Patrick Groarke
Richard Johnson	Patrick O'Connor
Joseph Finnegan	Noel Rubotham
Edmond Honohan	
Adrian Hardiman	
William McKechnie	
Elizabeth Dunne	
Paul McGarry	

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

Dated this 13 day of February, 2008.

Signed: BRIAN LENIHAN

Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 22nd February, 2008.*

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2008

1. The Rules of the Superior Courts are hereby amended by:

- (i) the substitution in each of Order 12, rule 2(2A)(a) and Order 13, rule 2A for the words “Order 84B or Order 84C” of the words “Order 81A, Order 84B or Order 84C”;
- (ii) the insertion, immediately following paragraph (g) of the definition of “commercial proceedings” in rule 1 of Order 63A thereof of the following:

“(h) any proceedings by or against the Registrar (within the meaning of Article 1 of the Cape Town Convention) in connection with any function exercised or exercisable by the Registrar under the Cape Town Convention or the Aircraft Protocol (each as defined in section 3 of the International Interests in Mobile Equipment (Cape Town Convention) Act 2005) or any regulations or procedures made thereunder;” and

- (iii) the insertion, immediately following Order 81 thereof of the following:

“Order 81A

International Interests in Mobile Equipment (Cape Town Convention) Act 2005

1. (1) In this Order—

the “Act” means the International Interests in Mobile Equipment (Cape Town Convention) Act 2005;

“the Aircraft Protocol” and “the Cape Town Convention” each has the same meaning as in section 3 of the Act;

“International Registry”, “Registrar” and “regulations” each has the same meaning as in Article 1 of the Cape Town Convention.

(2) Any proceedings (not being proceedings in which only damages are claimed) by or against the Registrar in connection with any function exercised or exercisable by the Registrar under the Cape Town Convention or the Aircraft Protocol (or any procedures made thereunder) or any regulations shall be commenced by originating notice of motion.

(3) Any other proceedings in which relief (not being relief only by way of damages) is sought under or in exercise of a right of action conferred by the Act, the Cape Town Convention, the Aircraft Protocol or any regulations may be commenced by originating notice of motion.

(4) An originating notice of motion by which proceedings referred to in sub rules (2) or (3) are commenced (in this Order hereinafter called “the notice of motion”) shall, as appropriate, be entitled in the matter of the provision of the Act, the Cape Town Convention, the Aircraft Protocol or the regulations pursuant to which the application is made and as between the applicant and any person or persons against whom such relief is sought as respondents. The notice of motion shall contain the names and addresses of each respondent.

(5) Where any relief is sought affecting any entry or registration in the International Registry, the Registrar shall (if not the applicant) be a respondent to the notice of motion.

(6) The notice of motion shall contain a special indorsement of claim, which shall state specifically and with all necessary particulars the relief (other than damages) sought against each respondent and the grounds thereof. Where damages are claimed, the notice of motion shall contain a general indorsement of claim, which shall be set out immediately following the special indorsement of claim.

2. The provisions of rules 3 to 8 inclusive of Order 84B shall apply mutatis mutandis to proceedings begun under rule 1 save that not less than 4 days notice of the application shall be given.

3. Where the Court considers it appropriate having regard to the nature of any proceedings to which this Order relates, it may adjourn the proceedings to enable one or more of the parties to make an application pursuant to rule 4(2) of Order 63A to the Judge of the Commercial List for an order entering the proceedings in the Commercial List.”

2. These rules shall come into operation on the 12 day of March 2008.

3. These rules shall be construed together with the Rules of the Superior Courts 1986 to 2007 and may be cited as the Rules of the Superior Courts (Cape Town Convention) 2008.

EXPLANATORY NOTE

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

These Rules make provision to regulate, in a new Order 81A, the manner in which proceedings under the Cape Town Convention concerning the taking of security in respect of aircraft parts and other high value mobile assets may be conducted, and to include such proceedings in the category of proceedings which may be triable in the Commercial List.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2
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