



STATUTORY INSTRUMENTS

S.I. No. 325 of 2008

RULES OF THE SUPERIOR COURTS (RECORDING OF
PROCEEDINGS) 2008

(Prn. A8/1278)

S.I. No. 325 of 2008

RULES OF THE SUPERIOR COURTS (RECORDING OF
PROCEEDINGS) 2008

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 3rd day of April, 2008.

JOHN L. MURRAY

PATRICK O'CONNOR

RICHARD JOHNSON

NOEL RUBOTHAM

JOSEPH FINNEGAN

WILLIAM M^CKECHNIE

ELIZABETH DUNNE

LYNDON MACCANN

MARY CUMMINS

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

Dated this 12 day of August 2008.

DERMOT AHERN

Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 19th August, 2008.*

S.I. No. 325 of 2008

RULES OF THE SUPERIOR COURTS (RECORDING OF PROCEEDINGS) 2008

1. The Rules of the Superior Courts are hereby amended:
 - (a) by the substitution for sub-rules (3) and (4) of rule 23 of Order 58 of the following:

“(3) In the case of an appeal under rule 23(1)(a), the Registrar of the Supreme Court shall apply to the County Registrar or other proper officer for such documents as are lodged with the said County Registrar or other proper officer for the purposes of the appeal. The person responsible for providing any transcript of the proceedings shall furnish a transcript of the whole of the proceedings at the trial or of such part thereof as the Registrar of the Supreme Court may require. The transcript shall be typewritten or printed and certified by the transcript writer to be a complete and correct transcript of the whole of such record, or of the part required. In the absence of a transcript, the County Registrar or other proper officer shall furnish to the Registrar of the Supreme Court a signed copy of the note made by the Circuit Judge of any question of law raised before him and of the facts in evidence in relation thereto, and of his decision thereon and on the question or matter submitted to him. Such documents, transcript or note shall be supplied for the use of the Supreme Court and shall be used and received at the hearing of the appeal. The Registrar of the Supreme Court shall further apply to such County Registrar or other proper officer for the transmission to his office for the use of the Supreme Court of a file of all documents and papers relating to the case. If such report or note as aforesaid cannot be produced, the Supreme Court shall have power to hear and determine the appeal upon any other evidence or statement of what occurred before the Circuit Court Judge which the Supreme Court may deem sufficient.

(4) In the case of an appeal under rule 23(1)(b), the appellant shall lodge with the Registrar of the Supreme Court an attested copy of the judgment or order of the High Court appealed from and the books of appeal referred to in rule 12. If no transcript of the proceedings before the High Court is lodged, the appropriate Registrar of the High Court shall furnish to the Registrar of the Supreme Court a signed copy of the note made by the High Court Judge of any question of law raised before him and of the facts and evidence relating thereto and of his decision thereon and on the question or matters submitted to him. Such copies shall be received for the use of the Supreme Court and shall be used and received at the hearing of the appeal. The

Registrar of the Supreme Court shall further apply to such appropriate High Court Registrar for the transmission to him for the use of the Supreme Court of a file of all documents and papers relating to the case. If such note as aforesaid cannot be produced, the Supreme Court shall have power to hear and determine the appeal upon any other evidence or statement of what occurred before the High Court Judge which the Supreme Court may deem sufficient.”

- (b) by the deletion from rule 1 of Order 86 of the definition of “official stenographer”, and by the insertion in that rule of the following definitions:

“record” means a contemporaneous record of the proceedings concerned made by any one or more means, including, without limitation—

- (a) any shorthand or other note, whether written, typed or printed, and
- (b) any sound recording or other recording, capable of being reproduced in legible, audible or visual form, approved by the court;

“transcript writer” means any person (including a body corporate acting by its employee or contractor) appointed by the Courts Service to make a transcript of the record.”

- (c) by the substitution for the Heading to Part VII of Order 86 of the following:

“VII. Provision of Record and Transcript to Registrar”;

- (d) by the substitution for rule 14 of Order 86 of the following:

“14. (1) The person responsible for the storage or custody of the record of the proceedings made at the request of the Courts Service shall, at the Court’s or the Registrar’s request, make available the record or any part thereof to the Court or the Registrar, in such manner as is required.

(2) The transcript writer shall furnish to the Registrar at the Registrar’s request a transcript of the whole of the record of the proceedings at the trial (which shall contain all submissions made by counsel in the course of the trial including opening and closing speeches to the jury and any submissions made in mitigation of sentence) or of such part thereof as the Registrar may require. The transcript shall be typewritten or printed and certified by the transcript writer to be a complete and correct transcript of the whole of such record, or of the part required.

(3) The Registrar shall submit the transcript to the judge of the court of trial to be verified by him.

(4) A party interested in an appeal or application for leave to appeal may obtain from the Registrar the whole or of any part of the transcript as relates to the appeal or application, upon payment of the proper charges.”

(e) by the substitution for sub-rule (2) of rule 17 of Order 86 of the following:

“(2) A transcript of the record made of the proceedings at the trial of an appellant shall be supplied by the Registrar free of charge:

(a) to an appellant who has been granted a legal aid (appeal) certificate, and

(b) to any other appellant by order of the Court.”;

(f) by the substitution for rule 26 of Order 86 of the following:

“If it appears to the Registrar that any notice of application for leave to appeal does not show any substantial ground of appeal, the Registrar may list the case before the Court for directions without obtaining for the use of the Court a transcript of the record of the proceedings at the trial.”;

(g) by the substitution for Order 123 of the following:

“Order 123

Recording of Proceedings

1. In this Order, the expression “record” has the same meaning as in Order 86.

2. At the trial or hearing of any cause or matter, any party may, with the Court’s permission and subject to and in accordance with any direction of the Court, make or cause to be made a record of the proceedings, which record shall (subject, in the case of criminal proceedings, to rule 14(2) of Order 86) include—

(a) the oral evidence;

(b) in the case of an action tried by a Judge and jury, the Judge’s charge and directions to the jury, and the submissions and requisitions made to the judge and his ruling thereon;

(c) in any case tried by a Judge without a jury, the Judge's judgment (unless it be a written judgment).

3. At the hearing of any inquiry as to damages or other proceedings by the Master, any party may, with the Master's permission and subject to any order or direction of the Master, make or cause to be made a record of the proceedings in such case, which record shall include—

(a) any oral evidence;

(b) any speech or submissions by counsel or solicitor;

(c) the Master's judgment (unless it be a written judgment),

and Order 36, rule 44 shall not apply in any such case.

4. The party making or causing to be made a record in a case referred to in rule 2 or rule 3 shall pay the cost of the production of the record and, where any transcript is required, the cost of the production of such transcript and the said payment shall be borne by the said party unless the Judge or the Master (as the case may be) shall after the trial or hearing certify that in his opinion it was expedient that the proceedings or any part thereof should have been so recorded, or, as the case may be, a transcript produced. If such certificate is given, the cost occasioned by the making of the record (and, where certified, any cost arising from the production of a transcript of or from the record) to which the certificate relates shall be part of the costs in the cause.

5. The Judge shall have power during the course or at the conclusion of the trial or hearing, to direct that a transcript of the record or any part thereof be furnished to him at the public expense or be furnished to any party applying therefor at the expense of that party.

6. (1) In case of an appeal, only such part of the record of the proceedings as the parties agree to be relevant shall be transcribed and included in the books of appeal to be lodged by the appellant pursuant to Order 58, rule 12. Any party may, however, cause any additional part of the record to be transcribed and included in the books of appeal but shall not be allowed the expenses of such additional part of the transcript (or of making copies thereof) as part of any costs awarded to him unless the Supreme Court shall immediately after the appeal certify that in its opinion it was expedient or desirable that the transcript of such additional part of the record should have been lodged with the books of appeal.

(2) The Supreme Court shall have power, on the application of any party or without any such application, before or during the hearing of an appeal, to direct that any part of the record of the proceedings which has not been included in the books of appeal be transcribed and included therewith.

7. The Supreme Court or the Court may require the production to it of a record in such manner as it requires.

8. Unless

(a) otherwise permitted by and in accordance with this Order, or

(b) otherwise permitted by the Supreme Court or the Court and, in that event, subject to and in accordance with any direction of such court,

no person, other than the Courts Service or a person authorised by it on its behalf, shall make any record of proceedings otherwise than by written or shorthand notes.”;

(h) by the insertion in rule 1 of Order 125 of the following after the definition of “the Court” in that rule:

“the Courts Service” means the Courts Service established by the Courts Service Act 1998;”.

2. These Rules shall come into operation on the 10 day of September 2008.

3. These Rules shall be construed together with the Rules of the Superior Courts 1986 to 2008 and may be cited as the Rules of the Superior Courts (Recording of Proceedings) 2008.

EXPLANATORY NOTE

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

These rules are intended to facilitate the introduction of digital and other non-manual means of recording proceedings in addition to shorthand recording in criminal and civil proceedings.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834/37 nó 1890 213434; Fax: 01 - 6476843 nó 094 - 9378964)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
UNIT 20 LAKESIDE RETAIL PARK, CLAREMORRIS, CO. MAYO,
(Tel: 01 - 6476834/37 or 1890 213434; Fax: 01 - 6476843 or 094 - 9378964)
or through any bookseller.

€3.05



Wt. (B26260). 285. 8/08. Cahill. Gr. 30-15.