



STATUTORY INSTRUMENTS

S.I. No. 551 of 2008



RULES OF THE SUPERIOR COURTS (EUROPEAN ORDERS FOR
PAYMENT) 2008

(Prn. A8/2004)

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PAYMENT) 2008

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), 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 8 day of December, 2008.

RICHARD JOHNSON

ELIZABETH DUNNE

EDMOND HONOHAN

LYNDON MCCANN

PAUL MCGARRY

PATRICK O'CONNOR

NOEL RUBOTHAM

MAEVE KANE

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

Dated this 16 day of December, 2008.

DERMOT AHERN

Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 23rd December, 2008.*

S.I. No. 551 of 2008

RULES OF THE SUPERIOR COURTS (EUROPEAN ORDERS FOR
PAYMENT) 2008

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

(i) by the substitution for paragraph (1) of rule 1 of Order 2 of the following:

“(1) In all actions, save an application for a European order for payment under Order 42C, where the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising:

(a) upon a contract express or implied (as, for instance, on a bill of exchange, promissory note, or cheque, or other simple contract debt); or

(b) on a bond or contract under seal for payment of a liquidated amount of money; or

(c) on a statute where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty; or

(d) on a guarantee, whether under seal or not, where the claim against the principal is in respect of a debt or liquidated demand only; or

(e) on a trust.”;

(ii) by the insertion immediately following Order 42B of the following:

“Order 42C
European orders for payment

1. In this Order—

“2008 Regulations” means the European Communities (Order for Payment) Regulations 2008 (S.I. No. 525 of 2008);

“European order for payment” means an order for payment under the European order for payment procedure referred to Regulation No. 1896/2006;

“Member State” means a Member State of the European Union, with the exception of Denmark;

“Member State of origin” and “court of origin” each has the same meaning as in Article 5 of Regulation No. 1896/2006;

“Regulation No. 1896/2006” means Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, OJ L 399/1 of 30 December 2006, and corrigendum OJ L 18/11 of 25 January 2007.

2. Subject to Regulation No. 1896/2006, the provisions of Orders 42, 45 and 46 of these Rules, insofar as they apply to a judgment of the Court, shall apply to a European order for payment which has become enforceable in the Member State of origin, and any reference in any of the said Orders 42, 45 and 46 to a “judgment” shall, where the context so admits, include a reference to a European order for payment which has become enforceable in the Member State of origin.

3. (1) An application to the Court for a European order for payment shall, in accordance with Regulation 3 of the 2008 Regulations, be made by the claimant by delivering to the Central Office or by sending to that office by—

- (a) facsimile;
- (b) registered post; or
- (c) such means of electronic communication, if any, as may be prescribed by direction of the President of the High Court and under such conditions as the President may so prescribe,

a completed Form A in the form prescribed in Annex I to Regulation No. 1896/2006 and the Appendices to that Annex and containing all of the information required to be stated by Article 7(2) of Regulation No. 1896/2006.

(2) Every application to the Court for a European order for payment shall be entered in a Cause Book kept in accordance with Order 5, rule 7, and assigned a record number in accordance with that rule.

(3) Where Article 9(1) of Regulation No. 1896/2006 applies to any application to the Court for a European order for payment, the Master shall notify the claimant by causing to be sent to the claimant by one of the methods referred to in rule 3(1) a completed Form B in the form prescribed in Annex II to Regulation No. 1896/2006, specifying in the said form the time limit for completing or rectifying the application which shall, save for special reason, not exceed 30 days from the date on which the Form B is sent to the claimant.

(4) Where Article 10(1) of Regulation No. 1896/2006 applies to any application to the Court for a European order for payment, the Master shall notify the claimant by causing to be sent to the claimant by one of the methods referred to in rule 3(1) a completed Form C in the form prescribed in Annex III to Regulation No. 1896/2006, specifying in the place provided in the said form the time limit for accepting or refusing the proposal for a European order for payment for the amount specified, which shall, save for special reason, not exceed 30 days from the date on which the Form C is sent to the claimant.

(5) Where an application to the Court for a European order for payment is rejected in accordance with Article 11(1) of Regulation No. 1896/2006, the Master shall notify the claimant by causing to be sent to the claimant by one of the methods referred to in rule 3(1) a completed Form D in the form prescribed in Annex IV to Regulation No. 1896/2006.

(6) Where a European order for payment is issued by the Court, the Master shall, for the purposes of Article 12 of Regulation No. 1896/2006, cause the European order for payment (together with the materials required by Articles 12(2) and 16(1) of Regulation No. 1896/2006) to be served on the defendant. If served within the State, service shall be by registered prepaid post to the residence or place of business in the State of the defendant or personal. If served outside the State, service shall be in accordance with Order 11D.

(7) For the purposes of such service, the Master may require the claimant to furnish payment by way of reimbursement or advance to meet expenses incurred or to be incurred in effecting such service.

(8) Where the defendant, in accordance with Article 16(1) of Regulation No. 1896/2006 and Regulation 3(3) of the 2008 Regulations, lodges a statement of opposition to the European order for payment, the statement of opposition, in the Form F prescribed in Annex VI to Regulation No. 1896/2006 or in other written form, shall be lodged by the defendant delivering the same to the Central Office or sending the same to that office by one of the methods referred to in rule 3(1).

(9) Where the defendant does not send a statement of opposition to a European order for payment to the Central Office within the time limit prescribed by Article 16(2) of Regulation No. 1896/2006, the Master shall issue a declaration of enforceability in the Form G prescribed in Annex VII to Regulation No. 1896/2006 and shall cause the declaration (to which shall be annexed the European order for payment) to be sent to the claimant by one of the methods referred to in rule 3(1).

(10) Where a statement of opposition is entered to a European order for payment in accordance with Regulation No. 1896/2006 and the claimant has explicitly requested that the proceedings be terminated in that event, the Master shall, by one of the methods referred to in rule 3(1), cause the claimant to be notified, for the purposes of Article 17(3) of Regulation No. 1896/2006, in Form No. 3 in Appendix F, Part IV, that the defendant has lodged a statement of opposition and that, in accordance with the request of the claimant, the proceedings have been terminated.

(11) Where a statement of opposition is entered to a European order for payment in accordance with Regulation No. 1896/2006 and the claimant has not explicitly requested that the proceedings be terminated in that event, the Master shall, by one of the methods referred to in rule 3(1), cause the claimant to be notified for the purposes of Article 17(3) of Regulation No. 1896/2006, in Form No. 4 in Appendix F, Part IV,

- (a) that the defendant has lodged a statement of opposition and, as the case may be:
 - (i) that the proceedings have been remitted to the Circuit Court or to the District Court in accordance with Regulation 8(3) of the 2008 Regulations, or
 - (ii) that the proceedings have been transferred to ordinary civil proceedings before the Court, and
- (b) where the claimant is domiciled or habitually resident in a Member State other than the State, that the claimant should notify the Central Office of an address in the State for service of documents.

4. An application by a defendant for a review of a European order for payment under Article 20 of Regulation No. 1896/2006 shall, in accordance with Regulation 5 of the 2008 Regulations, be made to the Master by motion, grounded upon an affidavit sworn by or on behalf of the defendant. Copies of the notice of motion and affidavit referred to in this rule (and any exhibits to that affidavit) shall be served by the defendant (a) not later than seven days before the date fixed for the hearing of the motion, on the claimant to whom the European order for payment was issued and (b) on such other person or persons as the Master may direct.

5. An application by a defendant for refusal of enforcement under Article 22 of Regulation No. 1896/2006 shall be made to a judge of the Court by originating notice of motion or, where

the application relates to a European order for payment made by the Court, by notice of motion, entitled “In the matter of Article 22 of Regulation No. 1896/2006”. The application shall be grounded upon an affidavit sworn by or on behalf of the defendant. Save where the Court, being satisfied as to the urgency of the application, otherwise permits, copies of the originating notice of motion (or notice of motion) and affidavit (and any exhibits) shall be served by the defendant (*a*) not later than seven days before the date fixed for the hearing of the application, on the claimant and (*b*) on such other person or persons as the Court may direct.

6. (1) Where a defendant has applied for a review of a European order for payment, in accordance with Article 20 of Regulation No. 1896/2006, in the Member State of origin, an application by the defendant for any relief under Article 23 of Regulation No. 1896/2006 shall be made to a judge of the Court by originating notice of motion entitled “In the matter of Article 23 of Regulation No. 1896/2006”, save where the application relates to a European order for payment made by the Court, in which case the application shall be by notice of motion. The application shall be grounded upon an affidavit sworn by or on behalf of the defendant. Such affidavit shall set out that the defendant has applied for a review of a European order for payment, in accordance with Article 20 of Regulation No. 1896/2006, in the Member State of origin and shall exhibit a certified copy of any document (and, where any such document is not in one of the official languages of the State, a certified translation thereof) by which such review has been brought.

(2) Save where the Court, on being satisfied as to the urgency of the application, otherwise permits, copies of the originating notice of motion (or notice of motion) and affidavit referred to in sub-rule (1) (and any exhibits to that affidavit) shall be served by the defendant (*a*) not later than seven days before the date fixed for the hearing of the originating notice of motion (or notice of motion), on the claimant to whom the European order for payment was issued and (*b*) on such other person or persons as the Court may direct.

7. A claimant to whom a European order for payment has been issued in a Member State of origin other than the State shall be at liberty to apply to the proper officer in the Central Office to cause particulars of the European order for payment to be entered in the books kept for the purpose set out in Order 41, rule 6 in the like manner as is provided for in Order 41, rule 6 in relation to judgments. For the avoidance of doubt, a claimant referred to in this rule shall not be obliged to apply to the proper officer for this purpose.

8. (1) For the avoidance of doubt, a European order for payment and a declaration of enforceability may be signed and sealed by the proper officer in the Central Office on behalf of the Court.

(2) The proper officer in the Central Office may, at the request of the claimant, issue a duplicate of a European order for payment or of a declaration of enforceability.”; and

(iii) by the substitution for rule 9 of Order 63 of the following:

“9. (1) Any party aggrieved by an order, including an order as to costs, made by the Master may, within six days from the perfecting of the same, or if made ex parte from notice of the same, or in the case of a refusal from the date of such refusal, apply to the Court to discharge such order or to make the order refused.

(2) Sub-rule (1) shall not apply in the case of a European Enforcement Order certificate issued by the Master in accordance with Order 42B or the issue of, declaration as enforceable of or refusal of, a European order for payment by the Master in accordance with Order 42C.”.

2. The forms in the Schedule shall be inserted in Part IV of Appendix F to the Rules of the Superior Courts as Forms No. 3 and No. 4, respectively.

3. These Rules shall come into operation on the 16 day of December 2008.

4. 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 (European orders for payment) 2008.

SCHEDULE

O. 42C, r. 3(10).

No. 3

HIGH COURT

Record number:

Regulation (EC) No. 1896/2006

**NOTIFICATION OF RECEIPT OF STATEMENT OF OPPOSITION TO A
EUROPEAN ORDER FOR PAYMENT AND OF TERMINATION OF
PROCEEDINGS (Article 17)**

Between

A.B.

Claimant

and

C.D.

Defendant

To: the claimant

TAKE NOTICE that a statement of opposition has been entered by the defendant to the above European order for payment on the....day of20....

In accordance with your request that the proceedings be terminated in that event, the proceedings have been terminated.

Dated the.....day of.....20....

Signed.....
Registrar
High Court Central Office

No. 4

HIGH COURT

Record number:

Regulation (EC) No. 1896/2006

**NOTIFICATION OF RECEIPT OF STATEMENT OF OPPOSITION TO A
EUROPEAN ORDER FOR PAYMENT AND TRANSFER TO
ORDINARY CIVIL PROCEEDINGS (Article 17)**

Between

A.B.

Claimant

and

C.D.

Defendant

To: the claimant

TAKE NOTICE that a statement of opposition has been entered by the defendant to the above European order for payment on the....day of20....

As you have not explicitly requested that the proceedings be terminated in that event,

*the proceedings have been transferred to ordinary civil proceedings before the High Court.

*the proceedings have been remitted to the Circuit Court (.....Circuit) in accordance with Regulation 8(3) of the European Communities (Order for Payment) Regulations 2008 (S.I. No. 525 of 2008).

*the proceedings have been remitted to the District Court (District Court Area of....., District No.....) in accordance with Regulation 8(3) of the European Communities (Order for Payment) Regulations 2008 (S.I. No. 525 of 2008).

You should notify the Central Office of the High Court of an address in Ireland for service of documents in the proceedings.

Dated the.....day of.....20....

Signed.....
Registrar
High Court Central Office

*delete whichever inapplicable

”.

EXPLANATORY NOTE

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

These Rules insert a new Order 42C in the Rules of the Superior Courts, which order facilitates implementation of Regulation 1896 of 2006 (Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure).

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,
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