



STATUTORY INSTRUMENTS.

S.I. No. 307 of 2013



RULES OF THE SUPERIOR COURTS (LUGANO CONVENTION,
MAINTENANCE AND SERVICE) 2013

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MAINTENANCE AND SERVICE) 2013

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, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972) and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 18th day of October, 2012.

Susan Denham
Donal O'Donnell
William McKechnie
Elizabeth Dunne
John A. Edwards
Paul McGarry
Gerard Meehan
Patrick Groarke
Noel Rubotham
John Mahon

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

Dated this 26th day of July 2013.

ALAN SHATTER,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 9th August, 2013.*

S.I. No. 307 of 2013

RULES OF THE SUPERIOR COURTS (LUGANO CONVENTION,
MAINTENANCE AND SERVICE) 2013

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Lugano Convention, Maintenance and Service) 2013, shall come into operation on the 26th day of August 2013.

(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 2013.

2. The Rules of the Superior Courts are amended:

(i) by the deletion from Order 4, of sub-rule (3) of rule 1A;

(ii) in Order 4, by the substitution therein for rule 15 of the following rule:

“15. A plaintiff suing in person shall indorse upon the summons and notice in lieu of service of a summons his occupation or description and an address for service, where summonses, notices, pleadings, petitions, orders, warrants and other documents may be left for him.”;

(iii) by the substitution for Orders 11A, 11B and 11C of the Orders set out in Schedule 1;

(iv) by the substitution for sub-rule (4) of rule 2 of Order 12 of the following sub-rule:

“(4) For the purposes of this rule:

“domicile” is to be determined, as the case may be, in accordance with the provisions of:

Article 2 of Regulation 2201/2003,

Articles 59 and 60 of Regulation No. 44/2001,

Articles 59 and 60 of the Lugano Convention, or

section 15 and the Ninth Schedule of the 1998 Act”;

(v) in Order 12, rule 7, by the substitution therein for the words “an address for service within the jurisdiction” of the words “an address for service”;

(vi) by the substitution for Order 13A of the Order set out in Schedule 2;

(vii) by the substitution for Order 19, rule 3A of the following rule:

“3A. Where a statement of claim concerns a claim which the Court has power to hear and determine by virtue of any of Regulation No. 44/2001, Regulation No. 2201/2003, the Lugano Convention or the 1968 Convention, the following provisions shall apply:

(1) The statement of claim shall be endorsed with a statement that the Court has power under Regulation No. 44/2001, Regulation No. 2201/2003, the Lugano Convention or the 1968 Convention (as the case may be) to hear and determine the claim and shall specify the particular provision or provisions of the relevant instrument concerned under which the Court should assume jurisdiction; and

(2) The statement of claim shall be endorsed with a statement that no proceedings between the parties concerning the same cause of action are pending between the parties in another Member State of the European Union or (as the case may be) in a Contracting State of the Lugano Convention.”;

(viii) by the substitution for rules 8 and 9 of Order 29 of the following rules:

“8. No defendant shall be entitled to an order for security for costs in proceedings for the enforcement of a judgment under Chapter III of Regulation No. 44/2001, Chapter III of Regulation No. 2201/2003, Title III of the Lugano Convention, or Title III of the 1968 Convention solely on the ground that the plaintiff is a foreign national or that he or she is not domiciled or resident in the State in which enforcement is sought.

9. For the purposes of rule 8, “domicile” is to be determined, as the case may be, in accordance with the provisions of:

Article 2 of Regulation 2201/2003,

Articles 59 and 60 of Regulation No. 44/2001,

Articles 59 and 60 of the Lugano Convention, or

section 15 and the Ninth Schedule of the 1998 Act”;

(ix) by the substitution for Order 42A of the Order set out in Schedule 3;

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

“9. (1) Subject to sub-rules (2) and (3), 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) The time permitted for making an application referred to in sub-rule (1) in a case to which Order 42A, rule 13 applies shall not be six days but shall instead be as provided in Order 42A, rule 13.

(3) 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.”;

- (xi) in Order 70, rule 6, by the substitution therein for the words “an address for service within the jurisdiction” of the words “an address for service”;
- (xii) in Order 76, rule 13(1), by the substitution therein for the words “an address within the jurisdiction” of the words “an address for service”;
- (xiii) by the deletion from Order 76 of sub-rule (3) of rule 13;
- (xiv) in Order 76, rule 15, by the substitution therein for the words “at the address within the jurisdiction for the service of notices” of the words “at his address for service”;
- (xv) in Order 79, rule 43, by the substitution therein for the words “an address for service (within the jurisdiction)” of the words “an address for service”;
- (xvi) in Order 79, rule 49, by the substitution therein for the words “an address for service within the jurisdiction” of the words “an address for service”;
- (xvii) in Order 79, rule 55, by the substitution therein for the words “an address for service within the jurisdiction” of the words “an address for service”;
- (xviii) in Order 80, rule 50, by the substitution therein for the words “an address for service (within the jurisdiction)” of the words “an address for service”;
- (xix) in Order 84, rule 20(2), by the substitution therein for sub-paragraph (v) of the following sub-paragraph:
 - “(v) the applicant’s address for service;”;
- (xx) in Order 84A, rule 3, by the substitution therein for sub-paragraph (xvi) of the following sub-paragraph:
 - “(xvi) the applicant’s address for service;”;
- (xxi) in Order 94, rule 17, by the substitution in paragraph (d) thereof for the words “the name and address in the City of Dublin of the applicant’s solicitor” of the words “the name and address of the applicant’s solicitor (if any)”;

- (xxii) in Order 94, rule 18, by the substitution in paragraph (c) thereof for the words “address for service within the jurisdiction” of the words “address for service”;
- (xxiii) in Order 94, rule 18, by the substitution in paragraph (d) thereof for the words “the name and address in the City of Dublin of the applicant’s solicitor” of the words “the name and address of the applicant’s solicitor (if any)”;
- (xxiv) in Order 94, rule 20, by the substitution therein for the words “address for service within the jurisdiction” of the words “address for service”;
- (xxv) in Order 94, rule 28, by the substitution in paragraph (d) thereof for the words “an address within the jurisdiction at which he can be served with any document” of the words “an address for service”;
- (xxvi) in Order 94, rule 28, by the substitution for paragraph (e) thereof for the following paragraph:
 - “(e) the name and address of the patentee’s solicitor (if any) and the patentee’s address for service”;
- (xxvii) in Order 97, rule 4(1), by the substitution for paragraph (b) thereof for the following paragraph:
 - “(b) provide the petitioner’s address for service at which notices and proceedings may be served on him”;
- (xxviii) in Order 122, by the insertion immediately following rule 11 thereof of the following rule:
 - “12. Where:
 - (a) a provision of these Rules requires the delivery to or service on a party of any pleading or other document within a prescribed period after the delivery or service of a previous pleading or document or after another step in the proceedings, and
 - (b) the party to whom the pleading or other document is to be delivered or on whom such pleading or other document is to be served has provided an address for service outside the jurisdiction, and
 - (c) the pleading or other document can only be served in accordance with Order 11D,

the delivery or service of the pleading or other document concerned shall be deemed to have been effected in time if lodged with the transmitting agency for the transmission and service of the pleading or other document in accordance with Order 11D within the prescribed period.;

- (xxix) by the substitution for rule 1 of Order 125 of the rule set out in Schedule 4,
- (xxx) by the deletion from rule 1 of Order 133 of the words: ““Regulation No. 2201/2003” means Council Regulation (EC) No. 2201/2003 of 27 November 2003 (OJ L 338/1) concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.”, and
- (xxxi) by the substitution for forms numbers 6 and 7 in Part II of Appendix A of the forms in Schedule 5 bearing those numbers respectively.

Schedule 1**“Order 11A****Service out of the Jurisdiction under Council Regulation (EC) No. 44/2001 or the Lugano Convention (Civil and Commercial Matters)**

1. The provisions of this Order only apply to proceedings which are governed by Article 1 of Regulation No. 44/2001 or by Article 1 of the Lugano Convention and, so far as practicable and applicable, to any order, motion or notice in any such proceedings.

2. Service of an originating summons or notice of an originating summons out of the jurisdiction is permissible without the leave of the Court if, but only if, it complies with the following conditions:

(a) in the case of proceedings which are governed by Article 1 of Regulation No. 44/2001—

(1) the claim made by the summons or other originating document is one which, by virtue of Regulation No. 44/2001, the Court has power to hear and determine, and

(2) no proceedings between the parties concerning the same cause of action are pending between the parties in another Member State of the European Union, or

(b) in the case of proceedings which are governed by Article 1 of the 2007 Lugano Convention—

(1) the claim made by the summons or other originating document is one which, by virtue of the Lugano Convention and the 1998 Act, the Court has power to hear and determine, and

(2) no proceedings between the parties concerning the same cause of action are pending between the parties in another Contracting State of the Lugano Convention.

3. Where an originating summons or notice of an originating summons is to be served out of the jurisdiction under rule 2, the time to be inserted in the summons within which the defendant served therewith shall enter an appearance (including an appearance entered solely to contest jurisdiction by virtue of Article 24 of Regulation No. 44/2001 or Article 24 of the Lugano Convention) shall be:

(1) five weeks after the service of the summons or notice of summons exclusive of the day of service where an originating summons or notice of an originating summons is to be served in the European territory of another Member State of the European Union or of another Contracting State of the Lugano Convention, or

(2) six weeks after the service of the summons or notice of summons exclusive of the day of service where an originating summons or notice of an originating summons is to be served in any non-European territory of another Member State of the European Union or of another Contracting State of the Lugano Convention.

4. (1) Where two or more defendants are parties to proceedings to which the provisions of this Order apply, but not every such co-defendant is domiciled in:

- (i) a Member State of the European Union, or
- (ii) a Contracting State of the Lugano Convention,

for the purposes of Regulation No. 44/2001, the Lugano Convention or the 1998 Act, then the provisions of Order 11 requiring leave to serve out of the jurisdiction shall apply to each and every such co-defendant.

(2) This rule shall not apply to proceedings to which the provisions of Article 22 of either Regulation No. 44/2001 or the Lugano Convention concerning exclusive jurisdiction, or Article 23 of either Regulation No. 44/2001 or the Lugano Convention concerning prorogation of jurisdiction, apply. Service of such proceedings on all co-defendants shall be governed by the provisions of this Order.

5. (1) Subject to the provisions of Regulation No. 44/2001 or, as the case may be, of the Lugano Convention, where the parties to any contract have agreed without conferring jurisdiction for the purpose of Article 23 of either Regulation No. 44/2001 or the Lugano Convention, that service of any summons in any proceedings relating to such contract may be effected at any place within or without the jurisdiction on any party or on any person on behalf of any party or in any manner specified or indicated in such contract, then, in any such case, notwithstanding anything contained in these Rules, service of any such summons at the place (if any) or on the party or on the person (if any) or in the manner (if any) specified or indicated in the contract shall be deemed to be good and effective service wherever the parties are resident. If no place, or mode, or person be so specified or indicated, service shall be effected in accordance with these Rules.

(2) Where a contract contains an agreement conferring jurisdiction to which the provisions of Article 23 of either Regulation No. 44/2001 or the Lugano Convention concerning prorogation of jurisdiction apply and the originating summons is issued for service out of the jurisdiction without leave under rule 2 and is duly served in accordance with these Rules, the summons or notice of summons shall be deemed to have been duly served on the defendant.

6. Where the defendant is not, or is not known or believed to be, a citizen of Ireland, notice of summons and not the summons itself shall be served upon him.

7. Subject to the provisions of this Order, notice in lieu of summons shall be given in the manner in which summonses are served.

8. Where a defendant wishes to enter an appearance to contest the jurisdiction of the Court for the purposes of Article 24 of either Regulation No. 44/2001 or the Lugano Convention, he may do so by entering an appearance in Form No. 6 in Appendix A, Part II.

9. While the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters annexed to Council Decision No. 2005/790/EC of 20 September 2005 (OJ L 299/61 of 16 November 2005) signed at Brussels on 19 October 2005 and approved on behalf of the Community by Council Decision No. 2006/325/EC of 27 April 2006 (OJ L 120/22 of 5 May 2006) is for the time being in force, notwithstanding any other provision of these Rules to the contrary, the provisions of these Rules which relate to Regulation No. 44/2001 shall apply in relation to the Kingdom of Denmark, to the extent permitted, and subject to any modifications made necessary, by that Agreement, and the provisions of these Rules which relate to the 1968 Convention shall not apply. While at any time the said Agreement is not in force, Order 11B shall apply in relation to proceedings involving a defendant domiciled in the Kingdom of Denmark.

10. For the purpose of this Order:

“domicile” is to be determined in accordance with the provisions of Articles 59 and 60 of Regulation No. 44/2001 or, as the case may be, of Articles 59 and 60 of the Lugano Convention;

“summons” includes, where the context so admits or requires, any other originating document.

Order 11B

Service out of the Jurisdiction under the Jurisdiction of Courts and Enforcement of Judgments Act 1998 (1968 Convention)

1. The provisions of this Order, subject to Order 11A, rule 9, only apply to proceedings which are governed by the terms of the 1968 Convention and Part II of the 1998 Act (and the First Schedule thereof) and, so far as practicable and applicable, to any order, motion or notice in any such proceedings.

2. Service of an originating summons or notice of an originating summons out of the jurisdiction is permissible without the leave of the Court if, but only if, it complies with the following conditions:

(1) the claim made by the summons is one which by virtue of either the 1968 Convention and Part II of the 1998 Act (and the First Schedule thereof) the Court has power to hear and determine, and

(2) no proceedings between the parties concerning the same cause of action is pending between the parties in another state in which the 1968 Convention is in force.

3. Where an originating summons or notice of an originating summons is to be served out of the jurisdiction under rule 2, the time to be inserted in the summons within which the defendant served therewith shall enter an appearance (including an appearance entered solely to contest jurisdiction by virtue of Article 18 of the 1968 Convention) shall be:

- (a) five weeks after the service of the summons or notice of summons exclusive of the day of service where an originating summons or notice of an originating summons is to be served in the European territory of another state in which the 1968 Convention is in force, or
- (b) six weeks after the service of the summons or notice of summons exclusive of the day of service where an originating summons or other originating document or notice of an originating summons or document is to be served in any non-European territory of another state in which the 1968 Convention is in force.

4. (1) Where two or more defendants are parties to proceedings to which the provisions of this Order apply, but not every such co-defendant is domiciled in:

- (i) a Member State of the European Union;
- (ii) a Contracting State of the Lugano Convention, or
- (iii) a state in which the 1968 Convention is in force

for the purposes of the 1998 Act, Regulation No. 44/2001 or the Lugano Convention, then the provisions of Order 11 requiring leave to serve out of the jurisdiction shall apply to each and every such co-defendant.

(2) This rule shall not apply to proceedings to which the provisions of Article 16 of the 1968 Convention concerning exclusive jurisdiction, or Article 17 of the 1968 Convention concerning prorogation of jurisdiction, apply. Service of such proceedings on all co-defendants shall be governed by the provisions of this Order.

5. (1) Subject to the provisions of the 1968 Convention, where the parties to any contract have agreed without conferring jurisdiction for the purpose of Article 17 of the 1968 Convention, that service of any summons in any proceedings relating to such contract may be effected at any place within or without the jurisdiction on any party or on any person on behalf of any party or in any manner specified or indicated in such contract, then, in any such case, notwithstanding anything contained in these Rules, service of any such summons at the place (if any) or on the party or on the person (if any) or in the manner (if any) specified or indicated in the contract shall be deemed to be good and effective service wherever the parties are resident. If no place, or mode, or person be so specified or indicated, service shall be effected in accordance with these Rules.

(2) Where a contract contains an agreement conferring jurisdiction to which the provisions of Article 17 of the 1968 Convention concerning prorogation of jurisdiction apply and the originating summons is issued for service out of the

jurisdiction without leave under rule 2 and is duly served in accordance with these Rules, the summons or notice of summons shall be deemed to have been duly served on the defendant.

6. Where the defendant is not, or is not known or believed to be, a citizen of Ireland, notice of summons and not the summons itself shall be served upon him.

7. Subject to the provisions of this Order, notice in lieu of summons shall be given in the manner in which summonses are served.

8. Where a defendant wishes to enter an appearance to contest the jurisdiction of the Court for the purposes of Article 18 of the 1968 Convention, he may do so in the Form No. 7 in Appendix A, Part II.

9. For the purpose of this Order:

“domicile” is to be determined in accordance with the provisions of section 15 and the Ninth Schedule of the 1998 Act;

“summons” includes, where the context so admits or requires, any other originating document.

Order 11C

**Service out of the Jurisdiction under:
Council Regulation (EC) No. 2201/2003 (Matrimonial Matters and Matters of
Parental Responsibility)
Council Regulation (EC) No. 4/2009 (Maintenance Obligations)**

1. For the purpose of this Order:

“domiciled” is to be determined in accordance with the provisions of Article 3 of Regulation No. 2201/2003;

“the Maintenance Regulation” means Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7/1 of 10 January 2009);

“relevant maintenance proceedings” means proceedings to which the Maintenance Regulation relates;

“relevant matrimonial or parental proceedings” means proceedings to which Regulation No. 2201/2003 relates;

“relevant Member State” means:

- (a) in the case of relevant maintenance proceedings, a Member State of the European Union other than the State, or
- (b) in the case of relevant matrimonial or parental proceedings, a Member State of the European Union other than the State or Denmark;

“Regulation No. 2201/2003” means Council Regulation (EC) No. 2201/2003 of 27 November 2003 (OJ L 338/1) concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, and, where the context so admits or requires, shall include reference to Council Regulation (EC) No. 1347/2000 of 29 May 2000 (OJ L 160/22) on jurisdiction and the recognition of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, as amended (which latter Regulation is repealed as from the date of application of Council Regulation (EC) No. 2201/2003) and any reference to an Article of Council Regulation (EC) No. 2201/2003 shall include reference to the corresponding Article of Council Regulation (EC) No. 1347/2000 indicated in Annex V of Council Regulation (EC) No. 2201/2003;

“resident” or “habitually resident” is to be determined, in relevant matrimonial or parental proceedings in accordance with the provisions of Article 3 of Regulation No. 2201/2003, or relevant maintenance proceedings in accordance with the provisions of Chapter II of the Maintenance Regulation;

“summons” includes, where the context so admits or requires, any other originating document.

2. The provisions of this Order only apply to proceedings which are governed by the terms of Article 1 of Regulation No. 2201/2003 or, as the case may be, Chapter II of the Maintenance Regulation and, so far as practicable and applicable, to any order, motion or notice in any such proceedings.

3. The provisions of Order 4, rule 1A; Order 5, rule 14; Order 11D, rule 5(4); Order 13A, rule 2; Order 19, rule 3A; Order 29, rule 8 and Order 121, rule 2A, as each such provision applies to Regulation No. 2201/2003, shall apply *mutatis mutandis* to the Maintenance Regulation, as if references therein to Regulation No. 2201/2003 were references to the Maintenance Regulation and with the necessary modifications.

4. Service of an originating summons or notice of summons out of the jurisdiction is permissible without the leave of the Court, if, but only if, it complies with the following conditions:

- (a) the claim made by the summons is one which, by virtue of Regulation No. 2201/2003 or, as the case may be, Chapter II of the Maintenance Regulation, the Court has power to hear and determine, and
- (b) in the case of proceedings governed by the terms of Article 1 of Regulation No. 2201/2003, no proceedings
 - (i) relating to divorce, legal separation or marriage annulment between the same parties or, as the case may be,
 - (ii) relating to parental responsibility relating to the same child and involving the same cause of action

are pending in a relevant Member State; or

- (c) in the case of proceedings governed by Chapter II of the Maintenance Regulation, no proceedings relating to maintenance obligations arising from a family relationship, parentage, marriage or affinity between the same parties and involving the same cause of action are pending in a relevant Member State.

5. Where an originating summons or notice of an originating summons is to be served out of the jurisdiction under rule 4, the time to be inserted in the summons within which the defendant served therewith shall enter an appearance (including an appearance entered solely to contest jurisdiction) shall be:

- (a) five weeks after the service of the originating summons or notice of summons, exclusive of the day of service where an originating summons or notice of an originating summons is to be served in the European territory of a relevant Member State, or
- (b) six weeks after the service of the originating summons or notice of summons, exclusive of the day of service where an originating summons or notice of summons is to be served in any non-European territory of a relevant Member State.

6. Where two or more defendants are parties to proceedings to which the provisions of this Order apply, but not every such defendant is domiciled or habitually resident in the State or a relevant Member State, the rules as to jurisdiction in Regulation No. 2201/2003 or, as the case may be, in the Maintenance Regulation, shall apply.

7. Where the defendant is not, or is not known or believed to be, a citizen of Ireland, notice of summons, and not the summons itself, shall be served upon him.

8. Subject to the provisions of this Order, notice in lieu of summons shall be given in the manner in which summonses are served.

9. Where a defendant wishes to enter an appearance to contest the jurisdiction of the Court, he or she may do so by entering an appearance in Form No. 8 in Appendix A, Part II.

10. Where in any proceedings a judgment is given of a kind referred to in Article 41(1) or Article 42(1) of Regulation No. 2201/2003, the Registrar shall, where the conditions specified in Article 41(2) or, as the case may be, Article 42(2), of Regulation No. 2201/2003 are satisfied, prepare, for signature by the Judge, the certificate in the form in Annex III or IV, as appropriate, to Regulation No. 2201/2003. Such certificate when signed shall be sealed with the seal of the High Court (or the Supreme Court, as the case may be). The Registrar shall provide such completed certificate to any party to the proceedings who requests same.

11. To the extent that any rule contained in Order 70, Order 70A, Order 133 or any other Order of these Rules is inconsistent with the provisions of Regulation No. 2201/2003, of the Maintenance Regulation or of this Order, the provisions of Regulation No. 2201/2003, of the Maintenance Regulation or of this Order shall prevail.”

Schedule 2

“Order 13A

Default of Appearance under Regulation No. 44/2001, Regulation No. 2201/2003, the Lugano Convention and the Jurisdiction of Courts and Enforcement of Judgments Act 1998

1. Where an originating summons has been issued out of the jurisdiction under Order 11A, rule 2, Order 11B, rule 2 or Order 11C, rule 2, the plaintiff shall not be entitled to enter judgment except with leave of the Court.

2. An application for leave to enter judgment shall be made on notice and shall be supported by an affidavit stating that in the deponent’s belief:

(1) each claim made by the summons is one which by virtue of Regulation No. 44/2001, Regulation No. 2201/2003, the Lugano Convention or the 1998 Act (as the case may be) the Court has power to hear and determine, and

(2) no other Court has exclusive jurisdiction within the meaning of Article 22 of either Regulation No. 44/2001 or the Lugano Convention or Article 16 of the 1968 Convention (as the case may be) to hear and determine such claim, and

(3) where the summons or notice of the summons was served out of the jurisdiction under Order 11A, rule 2, Order 11B, rule 2 or Order 11C, rule 2, such service has taken place in due and proper form,

and giving in each case the source of grounds of such belief.

3. In the case of default of appearance by any defendant to an originating summons, the plaintiff shall:

(1) in the case of a plenary summons, (other than a personal injuries summons as defined in Order 1A), deliver a statement of claim by filing the same in the Central Office; or,

(2) in the case of a special summons file a grounding affidavit in the Central Office; or,

(3) in the case of a personal injuries summons, a summary summons or any other originating document, file an affidavit in the Central Office verifying the facts relied upon,

and thereupon may apply to court for a judgment in default of appearance.

4. Subject to the provisions of this Order, Order 13 shall, so far as practicable, apply to applications under this Order for leave to enter a judgment.

5. For the purpose of this Order, “summons” includes, where the context so admits or requires, any other originating document.”.

Schedule 3

“Order 42A

Protective Measures and Enforcement of Judgments, Authentic Instruments, Court Settlements and Decisions under the Jurisdiction of Courts and Enforcement of Judgments Act 1998, Council Regulation (EC) No. 1346/2000, Council Regulation (EC) No. 44/2001, Council Regulation (EC) No. 2201/2003 and Council Regulation (EC) No. 4/2009

1. (1) For the purposes of this Order:-

“2007 Hague Protocol” means the Hague Protocol of 23 November 2007 on the law applicable to maintenance applications;

“2011 Regulations” means the European Communities (Maintenance) Regulations 2011 (S.I. No. 274 of 2011) as amended by the European Communities (Maintenance)(Amendment) Regulations 2011 (S.I. No. 612 of 2011);

“decision” has the same meaning as in Article 2.1.1 of the Maintenance Regulation;

“insolvency judgment” means a judgment referred to in Article 25 of the Insolvency Regulation;

the “Insolvency Regulation” means Council Regulation (EC) No. 1346/2000 of 29 May 2000 on insolvency proceedings (OJ L 160/1 of 30 June 2000);

the “Maintenance Regulation” means Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7/1 of 10 January 2009);

“relevant European Union instrument” means, as the case may be,

- (a) Regulation No. 44/2001, or
- (b) the Lugano Convention as applied by the 1998 Act, or
- (c) Regulation No. 2201/2003, or
- (d) the Insolvency Regulation, or
- (e) the Maintenance Regulation;

“relevant order” means, as the case may be:

- (a) an order granting leave to enforce a judgment under Chapter III of Regulation No. 44/2001, or
- (b) an order granting leave to enforce a judgment under Chapter III of Regulation No. 2201/2003, or

- (c) an order granting leave to enforce a judgment under sections 7 and 8 of the 1998 Act, or
- (d) an order granting leave to enforce a judgment under sections 20E and 20F of the 1998 Act, or
- (e) an enforcement order under Article 30 of the Maintenance Regulation and Regulation 9(3) of the 2011 Regulations.

“relevant provisional measures” means, as the case may be,

- (a) provisional, including protective, measures under Article 31 of Regulation No. 44/2001 or section 13 of the 1998 Act (including an application for provisional (including protective) measures under the Lugano Convention by virtue of section 20K of the 1998 Act), or
- (b) provisional, including protective, measures of a kind referred to in Article 20 of Regulation No. 2201/2003 (but not including any such measures which may be sought as interim directions pursuant to section 12 or section 26 of the Child Abduction and Enforcement of Custody Orders Act 1991, and to which Order 133, rule 6 applies), or
- (c) preservation measures under Article 38 of the Insolvency Regulation, or
- (d) provisional, including protective, measures under Article 14 of the Maintenance Regulation.

(2) References in this Order to an application to enforce a judgment, and to proceedings concerning a judgment pursuant to Regulation No. 44/2001 include reference to an application to enforce an insolvency judgment and to proceedings concerning an insolvency judgment pursuant to Regulation No. 44/2001, in accordance with Article 25(1) of the Insolvency Regulation.

2. An application for relevant provisional measures shall be made *ex parte* to the High Court.

3. (1) An application for relevant provisional measures shall be grounded upon an affidavit specifying the relevant provisional measures sought pursuant to:

- (a) Article 31 of Regulation No. 44/2001 or section 13 of the 1998 Act (including an application for provisional (including protective) measures under Article 31 of the Lugano Convention by virtue of section 20K of the 1998 Act), or
- (b) Article 20 of Regulation No. 2201/2003, or
- (c) Article 38 of the Insolvency Regulation, or
- (d) Article 14 of the Maintenance Regulation.

(2) The affidavit by which the application is made, in addition to setting out the information and exhibiting the documents necessary to ground the application, shall:

- (a) state the nature of the proceedings or intended proceedings and exhibit a certified true copy of the document or documents used or proposed to be used to institute the proceedings;
- (b) specify the Member State of the European Union or, in the case of applications under the Lugano Convention, the Contracting State of the Lugano Convention in which the proceedings have been commenced or are to be commenced;
- (c) state the particular provisions of the relevant European Union instrument by which the court of the Member State of the European Union (or, in the case of an application under the Lugano Convention, of the Contracting State of the Lugano Convention) has assumed jurisdiction or, in the case of intended proceedings, would be entitled to assume jurisdiction.

4. The Court may make *ex parte* any interim order for relevant provisional measures upon such terms as to costs or otherwise or subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside. Every application for an interlocutory order for relevant provisional measures shall be brought by notice of motion.

5. (1) An application for the enforcement of a judgment pursuant to Chapter III of Regulation No. 44/2001 or Chapter III of Regulation No. 2201/2003 or section 7 or, as the case may be, section 20E of the 1998 Act shall be made *ex parte* to the Master.

(2) Where an application under the Maintenance Regulation for the recognition and enforcement of a decision given in a Member State not bound by the 2007 Hague Protocol is to be sent by the Central Authority to the Master in accordance with Regulation 17(2) of the 2011 Regulations, the Central Authority shall lodge with the Master the documents referred to in rule 8, and the determination of the application shall be notified in accordance with Regulation 17(3) of the 2011 Regulations.

(3) Any application under the Maintenance Regulation for the recognition and enforcement of a decision given in a Member State not bound by the 2007 Hague Protocol other than an application referred to in sub-rule (2) shall be made by motion *ex parte* grounded upon an affidavit specifying the protective measures (if any) requested by the applicant pursuant to Article 14 (and subject to Article 36(3)) of the Maintenance Regulation and exhibiting the documents mentioned in rule 8(a), (b) and (c).

(4) The provisions of sub-rules (2) and (3) shall apply *mutatis mutandis* to a decision given in a Member State bound by the 2007 Hague Protocol to which paragraph (a) or (b) of Article 75 of the Maintenance Regulation applies.

6. An application for enforcement referred to in rule 5(1) shall be made by motion *ex parte* grounded upon an affidavit specifying the protective measures (if any) requested by the applicant pursuant to Article 47(2) of Regulation No. 44/2001 or section 13(3) or, as the case may be, section 20K, of the 1998 Act and exhibiting:

- (a) in the case of an application pursuant to Article 38 of Regulation No. 44/2001 or, as the case may be, Article 38 of the Lugano Convention, the judgment which is sought to be enforced or a certified or otherwise duly authenticated copy thereof and the certificate referred to in Article 54 of Regulation No. 44/2001 or, as the case may be, Article 54 of the Lugano Convention, or
- (b) in the case of an application pursuant to Article 28 of Regulation No. 2201/2003, the judgment which is sought to be enforced or a certified or otherwise duly authenticated copy thereof and the certificate referred to in Article 39 of Regulation No. 2201/2003 and, in the case of a judgment given in default, the original or certified copy of a document which establishes that the party in default was served with the document or documents instituting the proceedings or with the equivalent document, or any document indicating that the defendant has accepted the judgment unequivocally, or
- (c) in any other case:

- (1) the judgment which is sought to be enforced or a certified or otherwise duly authenticated copy thereof;

- (2) in the case of a judgment given in default, the original or certified copy of a document which establishes that the party in default was served with the document or documents instituting the proceedings or with an equivalent document or documents in sufficient time to enable him to arrange for his defence;

- (3) documents which establish that, according to the law of the state in which it has been given, the judgment is enforceable and has been served;

- (4) where applicable, a document showing that the applicant is in receipt of legal aid in the state in which the judgment was given.

7. The affidavit grounding the application for enforcement referred to in rule 5(1) shall also state:

- (1) whether the said judgment provides for the payment of a sum or sums of money;

- (2) whether interest is recoverable on the judgment or part thereof in accordance with the law of the state in which the judgment was given, and if such be the case, the rate of interest, the date from which the interest is recoverable, and the date on which interest ceases to accrue;

(3) the address for service of proceedings on the party making the application and, to the best of the deponent's knowledge and belief, the name and usual or last known address or place of business of the person against whom judgment was given;

(4) the grounds on which the right to enforce the judgment is vested in the party making the application;

(5) as the case may require, that at the date of the application the judgment has not been satisfied, or the judgment has not been fully satisfied, and the part or amount in respect of which it remains unsatisfied.

8. An application for recognition and enforcement referred to in rule 5(2) shall specify the protective measures (if any) requested by the Central Authority on behalf of the applicant pursuant to Article 14 (and subject to Article 36(3)) of the Maintenance Regulation and shall include:

- (a) a duly authenticated copy of the decision which is sought to be enforced;
- (b) the extract referred to in Article 28(1)(b) of the Maintenance Regulation;
- (c) where necessary, a transliteration or translation (done in accordance with rule 19) of the content of the extract referred to in paragraph (b) into Irish or English.

9. Where the party making the application under rule 5 does not produce the documents referred to in rules 6, 7 or 8, the Master may, if he sees fit, adjourn the application to allow the applicant an opportunity to produce the said documents or, alternatively, accept equivalent documents, or dispense with the production of the said documents.

10. A relevant order shall state the period in accordance with:

- (a) Article 43(5) of Regulation No. 44/2001, or
- (b) Article 33(5) of Regulation No. 2201/2003, or
- (c) Article 36 of the 1968 Convention, or
- (d) Article 43(5) of the Lugano Convention, or
- (e) Article 32 of the Maintenance Regulation,

(as the case may be) within which an appeal may be made against the relevant order for enforcement, and shall contain a notification that execution of the judgment or decision will not issue until after the expiration of that period and shall specify the protective measures (if any) granted pending execution.

11. Notice of the making of a relevant order shall be served together with the relevant order on the person against whom the relevant order was made by

delivering it to him personally or in such other manner as the Master may direct. The provisions of Order 11A, Order 11B or Order 11C as appropriate shall apply in relation to such a notice as they apply in relation to an originating summons.

12. The notice of enforcement shall state:

- (a) full particulars of the judgment or decision declared to be enforceable and the relevant order;
- (b) the name and address of the party making the application and his address for service;
- (c) the protective measures (if any) granted in respect of the property of the person against whom judgment was given;
- (d) the right of the person against whom the relevant order was made to appeal to the High Court against the relevant order, and
- (e) the period within which an appeal against the relevant order may be made.

13. (1) If enforcement is authorised by the Master, the party against whom enforcement is sought may, subject to sub-rules (2), (3), (4) and (5), appeal against the relevant order to the High Court within one month of service thereof or, where the relevant order is made under the Maintenance Regulation, within thirty days of service thereof. All such appeals may be brought by notice of motion which shall be served on the party in whose favour the relevant order was granted by the Master. The High Court shall have power to stay the proceedings, on such terms as it sees fit, if an ordinary appeal has been brought against the judgment which is sought to be enforced in the Member State of the European Union (other than the State) or the Contracting State of the 1968 Convention or Contracting State of the Lugano Convention (other than the State) in which that judgment was given; or if the time for such an appeal has not yet expired, the High Court may specify the time within which such an appeal is to be lodged in the courts of that Member State of the European Union or that Contracting State of the 1968 Convention or Contracting State of the Lugano Convention (as the case may be).

(2) In the case of enforcement proceedings under Chapter III of Regulation No. 2201/2003, if the party against whom enforcement is sought is habitually resident in a Member State of the European Union other than the State, the time for appealing shall be two months and shall run from the date of service, either on him personally or at his residence.

(3) In the case of enforcement proceedings under Chapter III of Regulation No. 44/2001 or Title III of the 1968 Convention, if the party against whom enforcement is sought is domiciled in a Member State of the European Union other than the State, the time for appealing shall be two months and shall run from the date of service, either on him personally or at his residence.

(4) In the case of enforcement proceedings under Title III of the Lugano Convention, if the party against whom enforcement is sought is domiciled in a Contracting State of the 1968 Convention or Contracting State of the Lugano Convention other than the State the time for appealing shall be two months and shall run from the date of service, either on him personally or at his residence.

(5) In the case of proceedings under Section 2 of Chapter IV of the Maintenance Regulation, if the party against whom enforcement is sought is habitually resident in a Member State of the European Union other than the State, the time for appealing shall be 45 days and shall run from the date of service, either on him personally or at his residence.

14. If the application for enforcement of the judgment or recognition and enforcement of the decision is refused, the applicant may appeal to the High Court within five weeks from the perfection of the order of the Master. The appeal shall be brought by notice of motion grounded upon an affidavit establishing that the party against whom enforcement is sought has been notified of the appeal and the date specified for the hearing of the appeal in sufficient time to enable him to arrange for his defence or, alternatively, that all necessary steps have been taken to this end.

15. Execution shall not issue on a judgment or decision in respect of which a relevant order has been made until after the expiration of the period specified in accordance with the provision of rule 13 applicable to the proceedings concerned, or if that period has been extended by the Court, until after the expiration of any such extended period. If an appeal is made to the High Court under rule 13, execution of the judgment or decision shall not issue until after such appeal (including any further appeal on a point of law to the Supreme Court) is determined. Any party wishing to issue execution on a judgment or decision in respect of which a relevant order has been made must produce to the appropriate officer an affidavit of service of the relevant order concerned granting leave to enforce a judgment or decision and of any order made by the Master, the High Court or the Supreme Court (as the case may be) in relation to the judgment or decision.

16. (1) The following provisions of this rule shall apply to appeals on a point of law to the Supreme Court under:

- (a) Article 44 of Regulation No. 44/2001, or
- (b) Article 34 of Regulation No. 2201/2003, or
- (c) Article 41 of the 1968 Convention, or
- (d) Article 44 of the Lugano Convention, or
- (e) Article 33 of the Maintenance Regulation

from a decision of the High Court granting or refusing recognition or enforcement (as the case may be) of a judgment or decision.

(2) Every such appeal shall be by notice of appeal in accordance with Order 58, rule 1, and such notice of appeal shall be served within five weeks from the perfection of the order of the High Court.

(3) It shall be the duty of the Registrar of the Supreme Court to apply to the appropriate Registrar of the High Court for 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.

(4) Subject to the provisions of this rule, Order 58 shall, so far as practicable, apply to an appeal on a point of law mentioned in sub-rule (1).

17. The foregoing rules of this Order shall apply to an application for recognition of a judgment or decision as they apply to an application for enforcement of a judgment with the exception that the applicant shall not be required to produce the documents referred to in rules 6(c)(3) and (4).

18. The foregoing rules of this Order shall apply as appropriate to an application:

- (a) for the enforcement of an instrument or settlement referred to in Chapter IV of Regulation No. 44/2001, or
- (b) for the enforcement of an instrument or settlement referred to in Title IV of the 1968 Convention or in Title IV of the Lugano Convention, or
- (c) for the enforcement of an instrument or agreement referred to in Section 5 of Chapter III of Regulation No. 2201/2003, or
- (d) for the recognition or enforcement of a court settlement or authentic instrument referred to in Article 48 of the Maintenance Regulation.

19. Where any judgment, decision, order or document which is required for the purposes of this Order is not in one of the official languages of the State, a translation thereof into the Irish or English language certified by a person competent and qualified for the purpose in one of the Member States of the European Union, Contracting States of the 1968 Convention or Contracting States of the Lugano Convention, as appropriate to the case, shall be admissible as evidence of same. The competence and qualification of the translator shall be verified by affidavit.

20. In the case of a judgment or decision of the High Court or the Supreme Court sought to be enforced in another Member State of the European Union or in a Contracting State of the Lugano Convention, a Registrar of the High Court or the Registrar of the Supreme Court (as the case may be) shall, at the request of an interested party, give such party a copy of the order and the written judgment (if any) of the Court duly authenticated.

21. (1) In the case of a judgment or decision of the High Court or the Supreme Court sought to be enforced or recognised in another Member State of the European Union or a Contracting State of the Lugano Convention, any application for a certificate signed by a Registrar of the High Court or the Registrar of the Supreme Court (as the case may be) shall be made on affidavit to the said Registrar.

(2) The affidavit by which an application mentioned in sub-rule (1) is made shall:

- (a) state the nature of the proceedings;
- (b) state the particular provision or provisions of Regulation No. 44/2001 or of Regulation No. 2201/2003 or of the 1968 Convention or of the Lugano Convention by which the Court assumed jurisdiction;
- (c) state the date on which the time for the lodging of an appeal against the judgment or decision will expire or, if it has expired, the date on which it expired;
- (d) state whether notice of appeal against, or in any case where the defendant does not appear, a notice to set aside, the judgment or decision has been entered;
- (e) state whether the judgment is for the payment of a sum of money, the rate of interest, if any, payable on the sum and the date from which interest is payable;
- (f) include annexed thereto two certified true copies of the originating summons or other process by which the proceedings were begun together with one copy of all the proceedings.

(3) In the case of a judgment or decision of the High Court or the Supreme Court sought to be enforced or recognised in another Member State of the European Union, any application by a party for an extract in the form in Annex I or Annex II to the Maintenance Regulation, signed by a Registrar of the High Court or the Registrar of the Supreme Court (as the case may be) shall be made to the said Registrar, and the requesting party shall:

- (a) lodge with the said Registrar an official duplicate or certified copy of the order recording the decision, and
- (b) file an affidavit in support of the request which affidavit shall:

- (i) state the particular provision or provisions of the Maintenance Regulation by which the Court assumed jurisdiction,
- (ii) state the equivalent of the details required in paragraphs (a), (c), (d) and (e) of sub-rule (2), and
- (iii) give such further information as is required to be provided in the form in Annex I or Annex II to the Maintenance Regulation, as is within the applicant's knowledge, in the sequence in which the information appears in the form concerned.

(4) The certificate mentioned in sub-rule (1) signed by the Registrar of the Court shall, as the case may be, be in the form in Annex V to Regulation 44/2001 or to the Lugano Convention, or be in the form in Annex I or II, as appropriate, to Regulation No. 2201/2003, or in any other case, shall be in accordance with Form No. 1 in Part III of Appendix F and shall be sealed with the seal of the High Court (or the Supreme Court, as the case may be), having annexed to it a certified true copy of the originating summons or other originating document by which the proceedings were commenced.

(5) An extract mentioned in sub-rule (3) signed by the Registrar of the Court shall be in the form in Annex I or Annex II, as appropriate, to the Maintenance Regulation, and shall have annexed to it a certified true copy of the originating summons or other originating document by which the proceedings were commenced.

(6) In the case of a judgment or decision in default of appearance, the affidavit grounding an application under sub-rule (2) shall, in addition, exhibit a certified true copy of the document which establishes that the person in default was served with the document instituting the proceedings.

22. (1) Where a party seeks enforcement in the State pursuant to Article 47 of Regulation No. 2201/2003 of a judgment of a kind referred to in Article 41(1) or Article 42(1) of Regulation No. 2201/2003 given in another Member State of the European Union, the application for such enforcement shall be by originating notice of motion entitled:

“The High Court
Family Law

In the Matter of Article 41 or 42 [as the case may be] of Regulation No.
2201/2003

And In the Matter of the Foreign Proceedings entitled“ ””.

(2) The said originating notice of motion shall be grounded on an affidavit exhibiting the documents referred to in Article 45 of Regulation No. 2201/2003 and shall specify the orders or other reliefs sought from the Court for the purposes of the enforcement of the judgment.

(3) The Court may give such directions as appear appropriate as to the service of the originating notice of motion.”

Schedule 4

“1. In these Rules, unless there is anything in the subject or context repugnant thereto, the several words and expressions hereinafter mentioned shall have or include the meanings following:

the “1968 Convention” means the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (including the Protocol annexed to that Convention), signed at Brussels on the 27th day of September 1968, including the 1978 Accession Convention, the 1982 Accession Convention, the 1989 Accession Convention and the 1996 Accession Convention;

the “1998 Act” means the Jurisdiction of Courts and Enforcement of Judgments Act 1998;

the “Accountant” means the Accountant attached to the High Court or a deputy appointed by the Courts Service;

“action” means a civil proceeding commenced by originating summons or in such other manner as may be authorised by these Rules, but does not include a criminal proceeding at the suit of the Attorney General;

“the Acts” means the Courts (Establishment and Constitution) Act 1961, and the Courts (Supplemental Provisions) Acts 1961 to 2012;

“address for service” means a complete postal address (including, where relevant, any postcode or other identifying reference number) to be notified by every party to proceedings begun before the Court to every other party to the proceedings at which that party may be served with documents relating to the proceedings, which must, unless otherwise provided in these Rules or permitted by order of the Court, be:

- (a) the place of business duly registered under the Solicitors Acts 1954 to 2008, either within the jurisdiction or within the jurisdiction of another state of the European Economic Area, of a solicitor who has been nominated to accept service on behalf of the party to be served or who is acting for the party to be served; or
- (b) the business address within the jurisdiction of a state of the European Economic Area of a registered lawyer (construed in accordance with Regulation 2 of the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. No. 732 of 2003)), who has been nominated to accept service on behalf of the party to be served or who is acting for the party to be served; or
- (c) where the party sues or defends in person—
 - (i) an address within the jurisdiction at which the party resides or carries on a trade, profession or business; or

(ii) an address within the jurisdiction of another state of the European Economic Area at which the party resides or carries on a trade, profession or business; or

(d) in any case in which paragraphs (a), (b) and (c) do not apply, an address for service within the jurisdiction;

“admiralty action” has the meaning given thereto by Order 64, rule 1;

“affidavit” in the case of a person allowed by law to declare instead of swearing, includes a declaration,

“attested copy” means a copy attested by the Superintendent of Typists, or such officer or officers as may be designated by the President of the High Court;

“authorised securities” means any investment in which money under the control or subject to the order of any court may be invested pursuant to the provisions of the Trustees (Authorised Investments) Act 1958, section 3;

“the Bank” means either, as the context requires, the Governor and Company of the Bank of Ireland or the bank of such Governor and Company;

“cause” includes any action, suit or other original proceeding between a plaintiff and defendant and any criminal proceeding;

“Central Office” means the Central Office established by the Courts (Supplemental Provisions) Act 1961;

“Chief State Solicitor” means the Chief Prosecution Solicitor where the Director of Public Prosecutions is a party or an intended party to proceedings or in respect of functions conferred on the Director of Public Prosecutions by section 3 of the Prosecution of Offences Act 1974 or otherwise;

“the Constitution” means the Constitution of Ireland enacted by the people on the 1st day of July, 1937;

“Contracting State of the Lugano Convention” has the meaning assigned to a “state bound by the Convention” by section 20A(1) of the Jurisdiction of Courts and Enforcement of Judgments Act 1998;

“Counsel” shall, where the context so admits or requires, include a lawyer, or lawyers, registered under the European Communities (Lawyers' Establishment) Regulations 2003 (as amended) for the purpose of pursuing the professional activities of a barrister within the meaning of the said Regulations;

“the Court” means either, as the context requires, the High Court or a Judge or Judges thereof, and includes the Master, the Examiner and the Probate Officer where they respectively have jurisdiction;

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

- “defendant” includes every person served with an originating summons, or served with notice of, or entitled to attend, any proceedings;
- “land” includes messuages, tenements, hereditaments, houses and buildings of any tenure;
- the “Lugano Convention” has the meaning assigned to the “Convention” by section 20A(1) of the Jurisdiction of Courts and Enforcement of Judgments Act 1998;
- “the Master” means the Master of the High Court and includes a deputy appointed by the Courts Service;
- “matter” shall include every proceeding in the Court not in a cause;
- “oath”, in the case of a person allowed by law to affirm instead of swearing, includes an affirmation;
- “party” includes every person served with notice of or attending any proceedings, although not named on the record;
- “person” includes a body corporate (whether aggregate or sole) and an unincorporated body of persons;
- “petitioner” includes any person making an application to the Court, either by petition or motion, otherwise than as against a defendant;
- “plaintiff” includes any person seeking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of civil proceeding;
- “pleading” includes an originating summons, statement of claim, defence, counter-claim, reply, petition or answer;
- “probate action” means any proceeding commenced by originating summons and seeking the grant or recall of probate, or letters of administration, or similar relief;
- “Regulation No. 44/2001” means Council Regulation (EC) No. 44/2001 of 22 December 2000, (OJ L 12 of 16 January 2001 and L. 307/28 of 24 November 2001) on jurisdiction and enforcement of judgments in civil and commercial matters as amended by Commission Regulation (EC) No. 1496/2002 of 21 August 2002 (OJ L 225/13) and by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded of 16 April 2003 (OJ L 236/33);
- “Regulation No. 2201/2003” means Council Regulation (EC) No. 2201/2003 of 27 November 2003 (OJ L 338/1) concerning jurisdiction and the recognition and

enforcement of judgments in matrimonial matters and the matters of parental responsibility, and, where the context so admits or requires, shall include reference to Council Regulation (EC) No. 1347/2000 of 29 May 2000 (OJ L 160/22) on jurisdiction and the recognition of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, as amended, which latter Regulation is repealed as from the date of application of Council Regulation (EC) No. 2201/2003 and any reference to an Article of Council Regulation (EC) No. 2201/2003 shall include reference to the corresponding Article of Council Regulation (EC) No. 1347/2000 indicated in Annex V of Council Regulation (EC) No. 2201/2003;

“sheriff” includes County Registrar when exercising the powers and functions of sheriff;

“solicitor” shall, where the context so admits or requires, include a lawyer, registered under the European Communities (Lawyers' Establishment) Regulations 2003 (as amended) for the purpose of pursuing the professional activities of a solicitor within the meaning of the said Regulations;

“suit” includes action;

“Superior Courts” means the Supreme Court, the High Court, the Court of Criminal Appeal, the Courts-Martial Appeal Court and the Central Criminal Court;

“trust corporation” has the meaning given thereto by section 30(4) of the Succession Act 1965;

“writing” includes printing, typewriting, lithography, photography and other modes of representing or reproducing words in visible form and cognate words shall be construed accordingly;

words importing the singular shall be construed as importing the plural and vice versa;

words importing the masculine gender shall be construed as importing the feminine gender;

references to any Regulation, Directive, Decision or Framework Decision adopted by the Council of the European Union, whether or not jointly with any other institution of the European Union, shall (save where any such amendment or extension does not have force of law in the State) be deemed to be references to such Regulation, Directive, Decision or Framework Decision as amended or extended from time to time.”

Schedule 5

No. 6

O.11A, r. 8

THE HIGH COURT

*In the matter of Article 24 of Council Regulation (EC) No. 44/2001

*In the matter of Article 24 of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October 2007

Between *AB*,

Plaintiff

and *CD*

Defendant

Enter an Appearance for *CD*, the [*†-named*] defendant in this action without prejudice and solely to contest the jurisdiction of the court.

Dated

Signed *EF*

Solicitor for the [*†-named*] defendant

The registered place of business of *EF* is [or *CD*, the defendant in person]

To: The Registrar of the Central Office.

Take Notice that I have this day entered an appearance without prejudice and solely to contest the jurisdiction of the court at the Central Office, Four Courts, Inns Quay, Dublin 7, for the above defendant to the [notice of] originating summons (*or other originating document*) in this action.

Dated

Signed

To:

† Insert as appropriate

*Delete where inapplicable

THE HIGH COURT

In the matter of the Jurisdiction of Courts and Enforcement
of Judgments Act 1998

And in the matter of Article 18 of the Brussels Convention 1968

Between *AB*,

Plaintiff

and *CD*

Defendant

Enter an Appearance for *CD*, the [*†-named*] defendant in this action without
prejudice and solely to contest the jurisdiction of the court.

Dated

Signed *EF*

Solicitor for the [*†-named*] defendant

The registered place of business of *EF* is [or *CD*, the
defendant in person]

To: The Registrar of the Central Office.

Take Notice that I have this day entered an appearance without prejudice and
solely to contest the jurisdiction of the court at the Central Office, Four Courts,
Inns Quay, Dublin 7, for the above defendant to the [notice of] originating
summons (*or other originating document*) in this action.

Dated

Signed

To:

† Insert as appropriate

EXPLANATORY NOTE

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

These rules amend various Rules of the Superior Courts to facilitate:

I. The 2007 Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters,

II. the European Communities (Maintenance) Regulations (S.I. No.274/2011), giving effect to the Council Regulation (EC) 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations ("the Maintenance Regulation") and

III. the removal of requirements for a plaintiff to have an address for service within the jurisdiction.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
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