



STATUTORY INSTRUMENTS.

**S.I. No. 2 of 2011**



RULES OF THE SUPERIOR COURTS (EXAMINER) 2011

**(Prn. A11/0067)**

RULES OF THE SUPERIOR COURTS (EXAMINER) 2011

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 15th day of December, 2010.

Nicholas Kearns

Joseph Finnegan

John Edwards

Paul McGarry

Sasha Gayer

Patrick Groarke

Patrick O'Connor

Mary Cummins

Noel Rubotham

Geraldine Manners

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

Dated this 12th day of January 2011.

DERMOT AHERN,

Minister for Justice and Law Reform.

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 18th January, 2011.*

## S.I. No. 2 of 2011

## RULES OF THE SUPERIOR COURTS (EXAMINER) 2011

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Examiner) 2011, shall come into operation on the 1st day of February 2011.

(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 2011.

2. The Rules of the Superior Courts are amended:

(i) by the substitution for rule 2 of Order 40 of the following rule:

“2. Save as otherwise provided by these Rules, all affidavits shall be filed in the Central Office. Affidavits used in proceedings to make a minor a ward of Court shall be filed in the Office of Wards of Court. Affidavits used in matters of bankruptcy, arrangement, or insolvency where an order of adjudication or, as the case may be, a winding up order, has been made or in any other case in which an account or inquiry has been directed to be taken by the Examiner and a notice to proceed has issued in accordance with Order 55, rule 11, shall be filed in the Examiner's Office. Affidavits used in non-contentious probate matters shall be filed in the Probate Office.”;

(ii) by the substitution for rule 20 of Order 50 of the following rule:

“20. A receiver in any proceeding assigned to a Judge pursuant to the provisions of Order 5, rule 4, shall file in the Examiner's Office his account and an affidavit verifying the same in the Form No. 24 in Appendix G. An appointment shall thereupon be obtained by the plaintiff or person having the conduct of the cause or by the receiver for the purpose of passing such account.”;

(iii) by the substitution for rule 25 of Order 50 of the following rule:

“25. When a receiver or administrator *pendente lite* has given security pursuant to the direction in the order appointing him, the bond shall be filed in the Examiner's Office and kept as of record until the same shall have been duly vacated, and the Examiner shall endorse on the order appointing him a certificate that the bond has been filed.”;

(iv) by the substitution for rule 2 of Order 52 of the following rule:

“2. Save as otherwise provided by these Rules, all such applications other than such as under the existing practice are made ex parte or are authorised by these Rules to be so made, shall be made by motion on notice to the parties concerned, which shall be filed:

- (a), in the case of applications to the Supreme Court, in the office of the Registrar of the Supreme Court,
- (b) in the case of applications relating to wards of Court, in the Office of Wards of Court,
- (c) in matters of bankruptcy, arrangement, or insolvency where an order of adjudication or, as the case may be, a winding up order, has been made or in any other case in which an account or inquiry has been directed to be taken by the Examiner and a notice to proceed has issued in accordance with Order 55, rule 11, the Examiner’s Office, and
- (d) in the case of other applications, in the Central Office.”;

(v) by the substitution for rule 40 of Order 55 of the following rule:

“40. Every notice by this Order required to be given to creditors or other claimants shall, unless the Court shall otherwise direct, be served through the Examiner’s Office on the creditor or other claimant at the address given in his claim, or, in case such creditor or other claimant shall have employed a solicitor, on such solicitor at the address given by him.”;

(vi) by the substitution for rule 47 of Order 55 of the following rule:

“47. Where an account is directed, the certificate shall state the result of such account, and not set the same out by way of schedule, but shall refer to the account verified by the affidavit filed, and shall specify, by the numbers attached to the items in the account, which (if any), of such items have been disallowed or varied, and shall state what additions (if any) have been made by way of surcharge or otherwise, and where the account verified by the affidavit has been so altered that it is necessary to have a fair transcript of the account as altered, such transcript may be required to be made by the party prosecuting the order, and shall then be referred to by the certificate. The accounts and the transcripts (if any) referred to in the certificate shall be filed in the Examiner’s Office.”;

(vii) by the substitution for rule 49 of Order 55 of the following rule:

“49. Every certificate, with the accounts (if any) to be filed therewith, shall be filed in the Examiner’s Office, and shall thenceforth be binding on all parties to the proceedings unless discharged or varied upon application by motion of which notice shall have been served within eight days of such filing; provided that in case of an application to discharge or vary any certificate to be acted upon by the Accountant without further order, or any certificate on passing receivers’ or liquidators’ accounts, the notice shall be served within three days after the filing of the certificate.”;

(viii) by the substitution for rule 52 of Order 55 of the following rule:

“52. Every order of the Court in matters of bankruptcy, arrangement, or insolvency where an order of adjudication or, as the case may be, a winding up order, has been made or in any other case in which an account or inquiry has been directed to be taken by the Examiner and a notice to proceed has issued in accordance with Order 55, rule 11, and all orders made by the Examiner, shall be issued out of the Examiner’s Office.”;

(ix) by the substitution for rule 6 of Order 74 of the following rule:

“6. Service of all notices, motions and other documents other than those of which personal service is required, may be effected:

- (a) where a winding up order has been made and a notice to proceed has issued in accordance with Order 55, rule 11, through the Examiner’s Office;
- (b) in any case where paragraph (a) does not apply, through the Central Office, or
- (c) by sending them by pre-paid post to the last known address of the person to be served therewith;

and the notice, motion or document shall be considered served at the time that the same ought to have been delivered in the ordinary course of post. When any such notices, motions or other documents are served by sending them by pre-paid post, a certificate of posting shall be obtained from the Post Office and shall be conclusive evidence of such service.”;

(x) by the substitution for sub-rule (1) of rule 24 of Order 74 of the following sub-rule:

“24. (1) A statement of affairs of a company required under section 224 shall be made out in duplicate, one copy of which shall be verified by affidavit. The verified statement of affairs shall, where the Court has made a winding up order, be filed in

the Examiner's Office and, where a provisional liquidator has been appointed, and while no winding up order has been made, be filed in the Central Office.", and

(xi) by the substitution for rule 33 of Order 74 of the following rule:

"33. When an Official Liquidator has given security pursuant to the direction in the order appointing him, the bond shall be filed in the Examiner's Office and the proper officer in the Examiner's Office shall indorse on the order appointing such Official Liquidator a certificate that the bond has been filed."

## EXPLANATORY NOTE

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

These rules substitute certain provisions of Orders 40, 50, 52, 55 and 74 of the Rules of the Superior Courts to provide for the filing in the Examiner's Office — instead of the Central Office as previously required — of documents in proceedings which are the subject of a notice to proceed before the Examiner.

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