



STATUTORY INSTRUMENTS.

S.I. No. 311 of 2013



DISTRICT COURT (MAINTENANCE AND LUGANO CONVENTION)
RULES 2013

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DISTRICT COURT (MAINTENANCE AND LUGANO CONVENTION)
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The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972), and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 10th day of December 2012.

Rosemary Horgan Chairperson

Mary C. Devins

Brian Sheridan

Conal Gibbons

Anne Watkin

Fiona Twomey

Noel A. Doherty

Michelle Johnston

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 13th August, 2013.*

S.I. No. 311 of 2013

DISTRICT COURT (MAINTENANCE AND LUGANO CONVENTION)
RULES 2013

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

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2013.

2. The District Court Rules 1997 are amended:

(i) by the deletion of Order 55;

(ii) by the substitution for Order 62 of the Order set out in Schedule 1.

3. (1) The Forms numbered 62.1, 62.2, 62.3, 62.4, 62.4A, 62.5, 62.6, 62.7, 62.8, 62.19 and 62.20 in Schedule 2 shall be substituted for the forms bearing the like numbers respectively in Schedule C to the District Court Rules 1997.

(2) The Form numbered 62.5A in Schedule 2 shall be added to the Forms in Schedule C to the District Court Rules 1997, immediately following Form 62.5.

(3) The Forms numbered 55.1 to 55.25 inclusive shall be deleted from Schedule C to the District Court Rules 1997.

4. Notwithstanding the amendments made by these Rules, maintenance proceedings and proceedings for the enforcement of maintenance orders to which Council Regulation (EC) 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L7 of 10 January 2009, page 1) does not apply by virtue of Article 75 of that Regulation and to which, but for Article 75 of that Regulation, the said Regulation would apply, may, as the case may be, be begun, continued and completed as if these Rules had not come into operation.

SCHEDULE 1

“ORDER 62

PROCEEDINGS UNDER

COUNCIL REGULATION (EC) NO 44/2001 ON JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS OR

THE BRUSSELS CONVENTION OF THE EUROPEAN COMMUNITIES ON JURISDICTION AND THE ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS, 1968 OR

THE LUGANO CONVENTION ON JURISDICTION AND THE ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS BETWEEN MEMBER STATES OF THE EUROPEAN COMMUNITIES AND THE EUROPEAN FREE TRADE ASSOCIATION, 2007 OR

COUNCIL REGULATION (EC) 4/2009 OF 18 DECEMBER 2008 ON JURISDICTION, APPLICABLE LAW, RECOGNITION AND ENFORCEMENT OF DECISIONS AND COOPERATION IN MATTERS RELATING TO MAINTENANCE OBLIGATIONS OR

THE ROME CONVENTION BETWEEN THE MEMBER STATES OF THE EUROPEAN COMMUNITIES ON THE SIMPLIFICATION OF PROCEDURES FOR THE RECOVERY OF MAINTENANCE PAYMENTS AND THE MAINTENANCE ACT 1994 OR

THE NEW YORK CONVENTION ON THE RECOVERY ABROAD OF MAINTENANCE AND THE MAINTENANCE ACT 1994.

1. (1) In and for the purposes of Part I of this Order—

Civil and commercial matters: definitions

“the Act of 1998” means the Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act 1998 (No. 52 of 1998);

“the Conventions” means the Brussels Convention, the 1971 Protocol, the 1978 Accession Convention, the 1982 Accession Convention, the 1989 Accession Convention and the 1996 Accession Convention (each as defined in section 2 of the Act of 1998);

“the Brussels Convention” means the Convention on Jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocol annexed to that Convention) done at Brussels on the 27th day of September, 1968, (as adjusted by the Accession Conventions of 1978, 1982, 1989 and 1996);

“domiciled” shall be construed, having regard to the instrument applicable in any given case, in accordance with Articles 2 and 59 to 61 of either the Jurisdiction Regulation or the Lugano Convention or, as the case may be, section 15 and the Ninth Schedule of the Act of 1998 and Articles 52 and 53 of the Brussels Convention;

the term “judgment” has the meaning assigned to it in section 4(1) of the Act of 1998;

“the Jurisdiction Regulation” means Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (O.J. L. 12 of 16 January 2001 and L. 307/28 of 24 November 2001) as amended by Commission Regulation (EC) No. 1496/2002 of 21 August 2002 (O.J. 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 (O.J. L. 236/33);

“the Lugano Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October 2007, as approved on behalf of the European Community by Council Decision 2009/430/EC of 27 November 2008, as given further effect in the State by the Act of 1998 as amended by the Jurisdiction of Courts and Enforcement of Judgments (Amendment) Act 2012, and includes the Protocols and Annexes;

“Member State” means a member state of the European Union in which the Jurisdiction Regulation applies.

(2) In and for the purposes of Parts II to VI of this Order:

Maintenance matters: definitions

“the Act of 1976” means the Family Law (Maintenance of Spouses and Children) Act 1976 (No.11 of 1976);

“the Act of 1994” means the Maintenance Act 1994 (No. 28 of 1994);

“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);

“the Central Authority under the Maintenance Regulation” means the Minister for Justice and Equality as designated by Regulation 16 of the 2011 Regulations (but includes any other person for the time being designated by the State to discharge in or for the State the duties imposed by the Maintenance Regulation on such an authority);

“the Central Authority under the 1994 Act” means a Central Authority appointed by order of the Minister for Justice and Equality under section 4(1)(a) of the Act of 1994 to discharge the functions required of it under the Act of 1994 or required of a Central Authority under the Rome Convention or of a transmitting agency or receiving agency under the New York Convention;

“central authority of a Member State” means the person designated by a Member State in which Chapter VII of the Maintenance Regulation applies to discharge in or for that State (in accordance with Article 49 of the Maintenance Regulation) the duties imposed by the Maintenance Regulation on such an authority;

“central authority of a reciprocating jurisdiction”, when used in the context of proceedings under Part III of the Act of 1994, means:

- (a) the central authority of such a jurisdiction which has been designated pursuant to paragraph 1 or, where appropriate, paragraph 2 of Article 2 of the Rome Convention, or
- (b) an authority of such a jurisdiction with functions corresponding to those exercisable by the Central Authority within the State;

“central authority of a designated jurisdiction” means:

- (a) a transmitting or receiving agency in a state which is a contracting party to the New York Convention, or
- (b) an authority of a designated jurisdiction with functions corresponding to those exercisable by the Central Authority within the State;

“claimant” means, according to the context, either:

- (a) a person residing in a Member State (including any body which under the law of that jurisdiction is entitled to exercise the rights of redress of or to represent that person) and claiming pursuant to the Maintenance Regulation to be entitled to receive maintenance from a person residing in the State, or
- (b) a person residing in a designated jurisdiction (including any body which under the law of that jurisdiction is entitled to exercise the rights of redress of or to represent that person) and claiming pursuant to Part III of the Act of 1994 to be entitled to receive maintenance from a person residing in the State, or
- (c) a person residing in the State (including a competent authority within the meaning of Part 12 (Liability to Maintain Family) of the Social Welfare (Consolidation) Act 2005) and claiming pursuant to the Maintenance Regulation to be entitled to recover maintenance from a person residing in a Member State, or

- (d) a person residing in the State (including a competent authority within the meaning of Part 12 (Liability to Maintain Family) of the Social Welfare (Consolidation) Act 2005) and claiming pursuant to Part III of the Act of 1994 to be entitled to recover maintenance from a person residing in a designated jurisdiction;

“Contracting State”:

- (a) when used in the context of proceedings under the Brussels Convention, has the meaning assigned to it in section 4(1) of the Act of 1998,
- (b) when used in the context of proceedings under the Lugano Convention, means a State in respect of which that Convention has entered into force or taken effect in accordance with Article 69 or 72 thereof;

“designated jurisdiction” means:

- (a) any state which is a contracting party to the New York Convention, or
- (b) any other state or jurisdiction which is declared by order of the Minister for Foreign Affairs to be a designated jurisdiction for the purposes of Part III of the Act of 1994;

“domiciled” and “habitually resident”, when used in relation to maintenance proceedings, shall be construed in accordance with the Maintenance Regulation;

the terms “2007 Hague Protocol”, “decision”, “enforceable maintenance order”, “enforcement order”, “maintenance debtor” and “maintenance order” have the meanings assigned to them respectively in Regulation 2 of the 2011 Regulations;

“maintenance creditor” includes any body which, under the law of a reciprocating jurisdiction, is entitled to exercise their rights of redress of, or to represent, the creditor, and references in these Rules to a maintenance creditor or to a claimant (as defined herein) shall be construed as including references to the Central Authority under the Maintenance Regulation and the Central Authority under the 1994 Act;

“the Maintenance Regulation” means Council Regulation (EC) 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L7 of 10 January 2009, page 1);

“Member State”, when used in relation to maintenance proceedings, means a member state of the European Union in which the relevant provision of the Maintenance Regulation applies;

“the New York Convention” means the Convention on the recovery abroad of maintenance done at New York on the 20th day of June, 1956;

“reciprocating jurisdiction” means a Member State or Contracting State (within the meaning of the Act of 1998) which is declared by order of the Minister for Foreign Affairs to be a reciprocating jurisdiction;

“respondent” means, according to the context, either:

- (a) a person residing in the State from whom maintenance is sought to be recovered pursuant to the Maintenance Regulation by a person residing in a Member State, or
- (b) a person residing in the State from whom maintenance is sought to be recovered pursuant to Part III of the Act of 1994 by a person residing in a designated jurisdiction, or
- (c) a person residing in a Member State from whom maintenance is sought to be recovered pursuant to the Maintenance Regulation by a person residing in the State, or
- (d) a person residing in a designated jurisdiction from whom maintenance is sought to be recovered pursuant to Part III of the Act of 1994 by a person residing in the State.

(3) In this Order:

Service: definitions

“Hague Convention” means the Hague Convention of 15th November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters

“Service Regulation” has the same meaning as in Order 11, rule 1.

PART I

CROSS-BORDER CIVIL AND COMMERCIAL PROCEEDINGS IN THE STATE

Jurisdiction Regulation

Brussels Convention

Lugano Convention

Venue in cross-border insurance matters

2. Whenever it is proposed to bring proceedings before the District Court by virtue of Article 9 of either the Jurisdiction Regulation or the Lugano Convention or Article 8.2 of the Brussels Convention (all of which relate to insurance matters) against an insurer domiciled in a Member State or Contracting State other than the State and the policy-holder is domiciled in the State, such proceedings may be brought, heard and determined at any sitting of the Court for the transaction of civil business for the district court area in which

the policy-holder is ordinarily resident or carries on any profession, business or occupation.

Venue in cross-border consumer contracts

3. Whenever a consumer who is domiciled in the State proposes to bring proceedings before the District Court by virtue of Article 16 of either the Jurisdiction Regulation or the Lugano Convention or Article 14 of the Brussels Convention (all of which relate to consumer contracts) against the other party to a contract and that other party is domiciled in a Member State or Contracting State other than the State, such proceedings may be brought, heard and determined at any sitting of the Court for the transaction of civil business for the district court area in which the consumer is ordinarily resident or carries on any profession, business or occupation.

Application of the Hague Convention or Service Regulation

4. (1) The provisions of the Service Regulation shall apply to proceedings brought in the District Court by virtue of the Jurisdiction Regulation. The provisions of the Hague Convention shall apply to proceedings brought in the District Court by virtue of the Conventions or the Lugano Convention.

(2) When any document for use in such proceedings is required by this Part to be served and such document is to be served upon a person in another State which is a state in which the Service Regulation applies, service shall be effected in accordance with the provisions (including Articles 7 to 10) of the Service Regulation and this Part. When any document for use in such proceedings is required by this Part to be served and such document is to be served upon a person in another State which is a state in which the Service Regulation does not apply but in which the Hague Convention applies, service shall be effected in accordance with the provisions (including Articles 8 to 11) of the Hague Convention and this Part.

Institution of proceedings against person domiciled abroad.

5. (1) Notwithstanding the provisions of Order 11, service of proceedings instituted in the District Court by virtue of the Jurisdiction Regulation, the Conventions or as the case may be, the Lugano Convention, against a person who is domiciled in a Member State or Contracting State other than the State, may be effected (in accordance with rule 4 of this Order and, where applicable, the provisions of the Service Regulation or, as the case may be, the Hague Convention) without prior leave of the Court.

(2) Whenever proceedings are instituted in the District Court by virtue of the Jurisdiction Regulation, the Conventions or the Lugano Convention against a person who is domiciled in a Member State or Contracting State other than the State and that person is not or is not known or believed to be a citizen of Ireland, notice of the document instituting the proceedings in the Form 62.1 Schedule C and not the document itself shall be served upon that person.

(3) A plaintiff or solicitor for a plaintiff may institute such proceedings by completing, signing, stamping (if so required) the civil summons or other document instituting the proceedings and lodging it, together with duly

completed originals and copies of the notice (Form 62.1 Schedule C) and of a certificate in the Form 62.2 Schedule C with the Clerk for the area for which the proceedings are to be issued. The Clerk shall stamp them with the official stamp showing the date of lodgment and shall, having regard to the provisions of sub-rule (5), list the proceedings for hearing before the Court and, having recorded the place, date and time of hearing on the civil summons or other document instituting the proceedings and the notices, shall return all documents to the plaintiff or the solicitor, as the case may be.

(4) In personal injuries proceedings, notice of the document instituting the proceedings shall additionally contain the following endorsement: "Take notice that you are required to deliver a defence to the plaintiff's claim not later than 28 days after the date of receipt of this notice."

(5) A notice and certificate returned under sub-rule (3) shall be served as indicated in rule 4 (which may include service by post provided that if such service is into a Contracting State in which the Hague Convention applies, the State of destination has not made an objection to such service under Article 10(a) of the Hague Convention) or, where appropriate, in accordance with the provisions of Order 11, upon the defendant and, where the documents are to be served in the European territory of another Member State or Contracting State they shall be served at least five weeks prior to the date of sitting of the Court before which the proceedings have been listed for hearing. Where the documents are to be served in any non-European territory of another Member State or Contracting State, they shall be served at least six weeks prior to that date.

(6) Upon receipt of the certificate of service prescribed in Article 10 and the Annex of the Service Regulation or Article 6 of the Hague Convention, the Plaintiff (or solicitor for the Plaintiff) shall lodge with the Clerk the originals of:

- the civil summons or other document instituting the proceedings,
- (where appropriate) the notice of institution of proceedings (Form 62.1) which was served,
- the certificate (Form 62.2) which was served, and
- the certificate of service,

at least four days prior to the said date of sitting of the Court.

(7) Where service has been effected by registered post or insured post the following provisions shall apply:

- (a) the plaintiff or plaintiff's solicitor shall, not earlier than ten days after the date of posting, lodge with the Clerk the relevant documents listed in sub-rule (6), together with a statutory declaration as to service of the documents posted, the certificate of posting and the advice of delivery form (when returned);

- (b) the documents issued for service shall be deemed to have been issued at the time at which the envelope containing the copies for service was posted;
- (c) the said documents shall, subject to the provisions of Article 9 of the Service Regulation or, as the case may be, Article 15 of the Hague Convention, be deemed to have been served at the time at which the said envelope would be delivered in the ordinary course of post;
- (d) the statutory declaration as to service, the certificate of posting and the advice of delivery form shall, subject to the provisions of the said Article 9 of the Service Regulation or, as the case may be, the said Article 15 of the Hague Convention, together be sufficient evidence of such service.

—where defendant is a citizen of Ireland

6. Whenever proceedings are instituted in the District Court by virtue of the Jurisdiction Regulation, the Conventions or the Lugano Convention against a person who is domiciled in a Member State or Contracting State other than the State, and that person is a citizen of Ireland, the civil summons or other document instituting the proceedings, with necessary modifications, may be served (rather than notice thereof). Subject to the foregoing proviso, the requirements of rule 5 shall apply in such cases and shall be construed accordingly. Two notices of intention to appear must be served in each case.

Notice of intention to appear

7. Where, in proceedings to which rule 5 or 6 relates, a defendant intends to appear or to be represented at the hearing for the purpose of defending the proceedings and/or, by virtue of Article 24 of either the Jurisdiction Regulation or the Lugano Convention, or Article 18 of the Brussels Convention for the purpose of contesting the jurisdiction of the Court, the defendant or solicitor for the defendant shall complete, detach and send by post to the Clerk one Notice of Intention to Appear (and Defend) so soon as to reach the Clerk's office not later than four days before the date fixed for the hearing, and shall at the same time complete, detach and send by post to the plaintiff or solicitor for the plaintiff the other such Notice.

Hearing of proceedings

8. (1) The provisions of Order 45 (Judgment in Default) shall not apply to proceedings to which this Part relates.

(2) At the hearing of proceedings referred to in rule 5 or 6, the Clerk shall produce to the Court any communication or correspondence received from the defendant.

where defendant does not appear

(3) Where the defendant fails to appear and is not represented at the hearing, the Court may, if it considers it necessary to do so, require the production of the advice of delivery form confirming delivery to the defendant or to the

defendant's address of the envelope containing the copy documents for service referred to in rule 5(5).

(4) Where the defendant fails to appear and is not represented at the hearing and no notice of intention to appear has been received from the defendant, it shall be necessary for the plaintiff or solicitor for the plaintiff to show to the satisfaction of the Court:

- (a) that each claim made in the document instituting the proceedings is one which, by virtue of the provisions of the Jurisdiction Regulation, the Conventions or, as the case may be, the Lugano Convention, the Court has jurisdiction to hear and determine,
- (b) that no other Court has exclusive jurisdiction within the meaning of the Jurisdiction Regulation, the Brussels Convention or, as the case may be, the Lugano Convention to hear and determine such claim,
- (c) that no proceedings involving the same cause of action are pending between the parties in another Member State or, as the case may be, in another Contracting State,
- (d) that the defendant was duly served with the document instituting the proceedings or notice thereof, and
- (e) that the defendant has been able to receive the said document or notice in sufficient time to enable him or her to arrange for his or her defence, or all necessary steps have been taken to this end, as required by Article 26 of either the Jurisdiction Regulation or the Lugano Convention or, as the case may be, Article 20 of the Brussels Convention.

(5) Where the defendant has not appeared or given notice to defend, judgment shall not be given until the requirements of Article 19 of the Service Regulation or, as appropriate, Article 15 of the Hague Convention (as set out in Order 11, rule 10) have been complied with.

(6) Notwithstanding the provisions of sub-rule (5), the Court may give judgment even if no certificate of service or delivery as provided for by the Service Regulation or by the Hague Convention has been received, if all the conditions listed in the said Article 15 of the Service Regulation or Article 19 of the Hague Convention (as set out in Order 11, rule 11) are fulfilled.

Enforcement of judgments abroad: provision of documents

(7) Where the Court gives judgment against a defendant in proceedings to which this rule relates, the plaintiff, (or solicitor for the plaintiff) shall forthwith notify the defendant of having obtained such judgment.

(8) Where judgment has been given in such proceedings against a defendant who has not appeared and that defendant wishes to apply for an extension of time for appeal from the judgment, the provisions of Order 11, rule 12 shall apply in every such case.

9. (1) An interested party who, for the purposes of Articles 53 and 54 of either the Jurisdiction Regulation or the Lugano Convention or, as the case may be, Articles 46 and 47 of the Brussels Convention, requests the provision of the documents mentioned in section 14 of the Act of 1998 in respect of a judgment given in the District Court, shall lodge with the Clerk for the district court area in which the judgment was given:

- (a) an original and two copies of the judgment duly completed,
- (b) a certificate in duplicate in the Form 62.3 Schedule C, and
- (c) where appropriate, an original and copy or copies of the document or documents establishing that notice of the institution of proceedings was served upon the defendant.

(2) When the judgment has been signed by the Judge and served in accordance with the provisions of rule 10, the Clerk shall give to the party requesting them a duly authenticated copy of the judgment, a certificate in the Form 62.3 Schedule C and a certified true copy or copies of the document or documents referred to in sub-rule 1(c), and shall retain the other documents in his or her custody.

Service of judgment and proof of service

10. (1) Where, for the purposes of Article 53 of either the Jurisdiction Regulation or the Lugano Convention or, as the case may be, Article 47 of the Brussels Convention, it is necessary to serve upon a defendant a judgment given at a sitting of the District Court, such service shall be effected by or on behalf of the plaintiff and in accordance with the provisions of the Service Regulation or the Hague Convention and this Part. When service has been effected and duly certified, the certificate of service or, where appropriate, the certificate of posting, statutory declaration as to service and the advice of delivery form, shall be lodged with the Clerk for retention with the original judgment.

(2) Upon the request of a party applying for enforcement of such a judgment for the provision of the documents referred to in Article 47.1 of the Brussels Convention, the Clerk shall give to that party a certificate in the Form 62.4 Schedule C (with any necessary modifications) and certified copy or copies of the relevant document or documents lodged under sub-rule (1). Upon the request of a party applying for enforcement of such a judgment for the provision of the certificate referred to in Article 54 of either the Jurisdiction Regulation or the Lugano Convention, the Clerk shall give to that party a certificate in the form of Annex V of the Jurisdiction Regulation, or in the Form 62.4A, Schedule C.

PART II

CROSS-BORDER MAINTENANCE PROCEEDINGS IN THE STATE

Maintenance Regulation

Venue in cross-border maintenance matters

11. Whenever it is proposed to bring proceedings before the District Court by virtue of Chapter II of the Maintenance Regulation and Regulation 3, 4 or 6 of the 2011 Regulations, against a person domiciled or habitually resident outside the State, and the creditor or debtor, as the case may be, is habitually resident in the State, or is deemed to be habitually resident in the Dublin Metropolitan District, such proceedings may be brought, heard and determined at any sitting of the Court for the court area in which creditor or debtor, as the case may be, is habitually resident or is deemed to be habitually resident.

Application of the Hague Convention or Service Regulation

12. (1) The provisions of the Service Regulation or of the Hague Convention shall, where relevant, apply to proceedings brought in the District Court by virtue of the Maintenance Regulation.

(2) When any document for use in such proceedings is required by this Part to be served and such document is to be served upon a person in another Member State, service shall be effected in accordance with the provisions (including Articles 7 to 10) of the Service Regulation and this Part. When any document for use in such proceedings is required by this Part to be served and such document is to be served upon a person in another State which is a state in which the Service Regulation does not apply but in which the Hague Convention applies, service shall be effected in accordance with the provisions (including Articles 8 to 11) of the Hague Convention and this Part.

Institution of proceedings against person domiciled abroad

13. (1) Notwithstanding the provisions of Order 11, service of proceedings which may be instituted in the District Court by virtue of the Maintenance Regulation and the 2011 Regulations against a person who is neither domiciled nor habitually resident in the State may be effected (in accordance with rule 4 of this Order and, where applicable, the provisions of the Service Regulation or, as the case may be, the Hague Convention) without prior leave of the Court.

(2) Whenever proceedings are instituted in the District Court by virtue of the Maintenance Regulation against a person who is neither domiciled nor habitually resident in the State, and that person is not or is not known or believed to be a citizen of Ireland, notice of the document instituting the proceedings in the Form 62.1 Schedule C and not the document itself shall be served upon that person.

(3) A claimant or solicitor for a claimant may institute such proceedings by completing, signing, stamping (if so required) the maintenance summons or other document instituting the proceedings and lodging it, together with duly completed originals and copies of the notice (Form 62.1 Schedule C) and of a certificate in the Form 62.2 Schedule C with the Clerk for the area for which

the proceedings are to be issued. The Clerk shall stamp them with the official stamp showing the date of lodgment and shall, having regard to the provisions of sub-rule (4), list the proceedings for hearing before the Court and, having recorded the place, date and time of hearing on the civil summons or other document instituting the proceedings and the notices, shall return all documents to the claimant or the solicitor, as the case may be.

(4) A notice and certificate returned under sub-rule (3) shall be served as indicated in rule 12 or, where appropriate, in accordance with the provisions of Order 11, upon the respondent and, where the documents are to be served in the European territory of another Member State they shall be served at least five weeks prior to the date of sitting of the Court before which the proceedings have been listed for hearing. Where the documents are to be served in any non-European territory of another Member State, they shall be served at least six weeks prior to that date.

(5) Upon receipt of the certificate of service prescribed in Article 10 and the Annex of the Service Regulation, the claimant (or solicitor for the claimant) shall lodge with the Clerk the originals of:

- the maintenance summons or other document instituting the proceedings,
- (where appropriate) the notice of institution of proceedings (Form 62.1) which was served,
- the certificate (Form 62.2) which was served, and
- the certificate of service,

at least four days prior to the said date of sitting of the Court.

(6) Where service has been effected by registered post or insured post the following provisions shall apply:

- (a) the claimant or claimant's solicitor shall, not earlier than ten days after the date of posting, lodge with the Clerk the relevant documents listed in sub-rule (5), together with a statutory declaration as to service of the documents posted, the certificate of posting and the advice of delivery form (when returned);
- (b) the documents issued for service shall be deemed to have been issued at the time at which the envelope containing the copies for service was posted;
- (c) the said documents shall, subject to the provisions of Article 9 of the Service Regulation, be deemed to have been served at the time at which the said envelope would be delivered in the ordinary course of post;
- (d) the statutory declaration as to service, the certificate of posting and the advice of delivery form shall, subject to the provisions of the said

Article 9 of the Service Regulation together be sufficient evidence of such service.

Where respondent is a citizen of Ireland

14. Whenever proceedings are instituted in the District Court by virtue of the Maintenance Regulation against a person who is neither domiciled nor habitually resident in the State, and that person is a citizen of Ireland, the maintenance summons or other document instituting the proceedings, with necessary modifications, may be served (rather than notice thereof). Subject to the foregoing proviso, the requirements of rule 13 shall apply in such cases and shall be construed accordingly. Two notices of intention to appear must be served in each case.

Notice of intention to appear

15. Where, in proceedings to which rule 13 or rule 14 relates, a respondent intends to appear or to be represented at the hearing for the purpose of defending the proceedings and/or, by virtue of Article 5 of the Maintenance Regulation for the purpose of contesting the jurisdiction of the Court, the respondent or solicitor for the respondent shall complete, detach and send by post to the Clerk one of the Notices of Intention to Appear (and Defend) which were received so soon as to reach the Clerk's office not later than four days before the date fixed for the hearing, and shall at the same time complete, detach and send by post to the claimant or solicitor for the claimant the other such Notice received.

Hearing of proceedings

16. (1) Subject to this rule, the provisions of Order 54 (Maintenance of Spouses and Children) shall apply to proceedings to which this Part relates.

(2) The provisions of Order 45 (Judgment in Default) shall not apply to proceedings to which this Part relates.

(3) At the hearing of proceedings referred to in rule 13 or rule 14, the Clerk shall produce to the Court any communication or correspondence received from the respondent.

—where respondent does not appear

(4) Where the respondent fails to appear and is not represented at the hearing, the Court may, if it considers it necessary to do so, require the production of the advice of delivery form confirming delivery to the respondent or to the respondent's address of the envelope containing the copy documents for service referred to in rule 13(5).

(5) Where the respondent fails to appear and is not represented at the hearing and no notice of intention to appear has been received from the respondent, it shall be necessary for the claimant or solicitor for the claimant to show to the satisfaction of the Court:

- (a) that each claim made in the document instituting the proceedings is one which, by virtue of the provisions of the Maintenance Regulation, the Court has jurisdiction to hear and determine,

- (b) that no proceedings involving the same cause of action are pending between the parties in another Member State,
- (c) that the respondent was duly served with the document instituting the proceedings or notice thereof, and
- (d) that the respondent has been able to receive the said document or notice in sufficient time and in such a way to enable him or her to arrange for his or her defence, as required by Article 19.1(a) of the Maintenance Regulation.

(6) Where the respondent has not appeared or given notice to defend, a decision shall not be given until the requirements of Article 19 of the Service Regulation (as set out in Order 11, rule 10) have been complied with.

(7) Notwithstanding the provisions of sub-rule (6), the Court may give a decision even if no certificate of service or delivery as provided for by the Service Regulation has been received if all the conditions listed in the said Article 15 of the Service Regulation (as set out in Order 11, rule 11) are fulfilled.

Enforcement of judgments abroad: provision of documents

(8) Where the Court gives a decision against a respondent in proceedings to which this rule relates, the claimant, (or solicitor for the claimant) shall forthwith notify the respondent of having obtained such decision.

(9) Where a decision has been given in such proceedings against a respondent who has not appeared and that respondent wishes to apply for an extension of time for appeal from the decision, the provisions of Order 11, rule 12 shall apply in every such case.

17. (1) A party who requests the provision of the documents mentioned in Article 20 or, as the case may be, Article 28, of the Maintenance Regulation:

- (a) shall lodge with the Clerk for the court area in which the decision was given an original and two copies of the order recording the decision and, where appropriate, an original and copy or copies of the document or documents establishing that notice of the institution of proceedings was served upon the respondent, and
- (b) shall provide the Clerk with any additional information required by the Clerk.

(2) When the order recording the decision has been signed by the Judge and served in accordance with the provisions of rule 18, the Clerk shall give to the party requesting them a duly authenticated copy of the order recording the decision, the extract in the form set out in Annex I or, as the case may be, Annex II, to the Maintenance Regulation and a certified true copy or copies of the other documents referred to in sub-rule 1(a), and shall retain the other original documents in his or her custody.

Service of decision and proof of service

18. Where, for the purposes of enforcing a decision under the Maintenance Regulation, it is necessary to serve upon a respondent a decision given at a sitting of the District Court, such service shall be effected by or on behalf of the claimant and in accordance with the provisions of the Service Regulation (or, where applicable, the Hague Convention) and this Part. When service has been effected and duly certified, the certificate of service or, where appropriate, the certificate of posting, statutory declaration as to service and the advice of delivery form, shall be lodged with the Clerk for retention with the original judgment.

Application for variation or revocation by virtue of Chapter II of the Maintenance Regulation

19. An application to the District Court being brought-

- (a) by virtue of Chapter II of the Maintenance Regulation, by a maintenance creditor domiciled in the State against a maintenance debtor outside the State, or
- (b) by virtue of Chapter II of the Maintenance Regulation, by a maintenance creditor outside the State against a maintenance debtor habitually resident or domiciled in the State

shall be preceded by the issue and service upon the respondent of the appropriate summons or notice of application mentioned in Order 54 or, where appropriate, notice thereof in the Form 62.1 Schedule C, with any necessary modifications, where the respondent is outside the State, and the provisions of this Part shall apply.

An order of the Court granting any such application shall be served upon a party within the jurisdiction by registered post and upon a party outside the State in accordance with the provisions of the Service Regulation (or, where applicable, the Hague Convention) and this Part.

20. (1) Where a maintenance debtor ceases to reside in the court area in which the proceedings have been registered and commences to reside elsewhere in the State, the Clerk for the said district court area shall forward to the Clerk for the district court area in which the maintenance debtor is for the time being residing the following documents:

- (a) a copy of the maintenance order and a copy of the relevant enforcement order or, as the case may be, a copy of the extract in the form set out in Annex I or, as the case may be, Annex II, to the Maintenance Regulation, of the decision issued by the court of origin,
- (b) a certificate of arrears in the Form 62.6 Schedule C,
- (c) a copy of the variation order (if any),
- (d) any other relevant document.

(2) The Clerk receiving the said documents shall proceed as if the copy of the maintenance order and the copy of the enforcement order had been received from the Master of the High Court.

PART III

ENFORCEMENT OF EU MAINTENANCE ORDERS UNDER THE MAINTENANCE REGULATION AND THE 2011 REGULATIONS: DECISIONS GIVEN IN A MEMBER STATE BOUND BY THE 2007 HAGUE PROTOCOL

Clerk to register decisions

21. (1) Where a maintenance creditor or the Central Authority under the Maintenance Regulation wishes to seek the enforcement in the State of a decision referred to in Article 17.1 of the Maintenance Regulation, the party or the Central Authority under the Maintenance Regulation shall send to the Clerk for the appropriate court area for the district referred to in Regulation 3, 4 or 6 (as the case may be) of the 2011 Regulations (in this Part, the “appropriate Clerk”) the documents referred to in Article 20 of the Maintenance Regulation.

(2) Where the Central Authority makes a request under Regulation 17(6) of the 2011 Regulations that payments of maintenance be made directly to the maintenance creditor, the Clerk shall enter the matter before the Court.

(3) On receipt of such documents, the Clerk shall—

(a) register particulars of the decision concerned, and

Notice to maintenance debtor

(b) by notice in the Form 62.5A, Schedule C, inform the maintenance debtor of the registration of the decision. Such notice shall be sent by registered prepaid post and a copy thereof shall also be sent by registered prepaid post to the person on whose behalf registration was sought.

Clerk to register particulars of variation etc.

(4) Where a decision referred to in sub-rule (1) has been varied or revoked by the court which made the decision and the appropriate Clerk has received the documents referred to in Article 20 of the Maintenance Regulation in respect of the variation or revocation, he or she shall register particulars thereof and shall by notice inform the maintenance debtor of the registration of the variation or revocation order.

(5) This rule does not limit the ability of a party who has not complied with sub-rule (1) to invoke in the State a decision recognised within the meaning of Article 17.1 of the Maintenance Regulation otherwise than for the purpose of enforcement of the decision.

22. (1) The provisions of Order 54, Order 56 and Order 57 (except rules 7 and 8 of that Order) shall apply and may be applied in respect of any decision recognised within the meaning of Article 17.1 of the Maintenance Regulation

which is a maintenance order (by virtue of the 2011 Regulations) or, as the case may be, is deemed to be an antecedent order by virtue of Regulation 8(3) of the 2011 Regulations.

(2) Without prejudice to the generality of sub-rule (1), whenever:

- (a) a District Court Clerk receives a request in writing from a maintenance creditor or from the Central Authority under the Maintenance Regulation in relation to any sum payable by virtue of any decision recognised within the meaning of Article 17.1 of the Maintenance Regulation which is a maintenance order (by virtue of the 2011 Regulations) or, as the case may be, is deemed to be an antecedent order by virtue of Regulation 8(3) of the 2011 Regulations, but not duly paid, such Clerk may proceed in accordance with the provisions of Order 56 (Attachment of Earnings) or rules 3 and 4 (but not rules 7 and 8) of Order 57 (Proceedings under section 8 of the Enforcement of Court Orders Act 1940), or
- (b) it appears to a District Court Clerk that any sums payable to him or her under any decision recognised within the meaning of Article 17.1 of the Maintenance Regulation which is a maintenance order (by virtue of the 2011 Regulations) or, as the case may be, is deemed to be an antecedent order by virtue of Regulation 8(3) of the 2011 Regulations, for transmission to the maintenance creditor are in arrears and he or she has received no request in writing under section 9(2) of the Family Law (Maintenance of Spouses and Children) Act 1976 in relation thereto, such Clerk may in his or her discretion, having considered the extent of the arrears and any other relevant matter, notify the maintenance creditor of the means of enforcement available in respect of the order.

PART IV

ENFORCEMENT OF EU MAINTENANCE ORDERS UNDER THE MAINTENANCE REGULATION AND THE 2011 REGULATIONS: DECISIONS GIVEN IN A MEMBER STATE NOT BOUND BY THE 2007 HAGUE PROTOCOL AND DECISIONS GIVEN IN A MEMBER STATE BOUND BY THE 2007 HAGUE PROTOCOL BUT TO WHICH ARTICLE 75.2(a) OR (b) APPLY

23. (1) Where a copy of a maintenance order or a copy of an order varying or revoking such an order, in respect of which an enforcement order has been made, is received together with a copy of the relevant enforcement order by a District Court Clerk from the Master of the High Court or the Central Authority, such Clerk shall register particulars of each document received.

(2) If the enforcement order has been made in respect of a maintenance order or an order varying a maintenance order, the Clerk shall send by registered post to the maintenance creditor and the maintenance debtor a notice in the Form 62.5 Schedule C.

(3) If the enforcement order has been made in respect of an order revoking a maintenance order, the Clerk shall send by registered prepaid post to the maintenance debtor a copy of such revocation order and a statement of any amounts still due and payable under the maintenance order, which statement shall contain, or be sent together with, an endorsement to the like effect as the endorsement on a notice under sub-rule (2).

24. (1) Whenever a District Court Clerk receives a request in writing from a maintenance creditor under Regulation 10(9) of the 2011 Regulations in relation to any sum payable by virtue of an enforceable maintenance order but not duly paid, such Clerk may proceed in accordance with the provisions of Order 56 (Attachment of Earnings) or rules 3 and 4 (but not rules 7 and 8) of Order 57 (Proceedings under section 8 of the Enforcement of Court Orders Act 1940).

(2) Where it appears to a District Court Clerk that any sums payable to him or her under an enforceable maintenance order for transmission to the maintenance creditor are in arrears and he or she has received no request in writing under the said Regulation 10(9) in relation thereto, such Clerk may in his or her discretion, having considered the extent of the arrears and any other relevant matter, notify the maintenance creditor of the means of enforcement available in respect of the order.

Application by virtue of Articles 2 and 5.2 of Brussels Convention or the Lugano Convention

25. (1) An application to the District Court being brought—

- (a) by virtue of Article 5.2 of either the Brussels Convention or the Lugano Convention by a maintenance creditor domiciled or habitually resident in the State against a maintenance debtor domiciled in a Member State or Contracting State other than the State for the variation of a maintenance order,
- (b) by virtue of Article 2 of either the Brussels Convention or the Lugano Convention by a maintenance creditor domiciled in a Member State or Contracting State other than the State against a maintenance debtor domiciled in the State for the variation of a maintenance order, or
- (c) by virtue of Article 2 of either the Brussels Convention or the Lugano Convention by a maintenance debtor domiciled in a Member State or Contracting State other than the State against a maintenance creditor domiciled in the State for the variation or revocation of a maintenance order,

shall be preceded by the issue and service upon the defendant of a summons in the Form 62.7 Schedule C or, where appropriate, notice thereof in the Form 62.1 Schedule C, with any necessary modifications, where the defendant is domiciled in a Member State or Contracting State other than the State, and the provisions of this Order shall apply.

(2) The order of the Court granting the application shall be in the Form 62.8 Schedule C and shall be served upon a party within the jurisdiction by registered post and upon a party domiciled in another Member State or Contracting State in accordance with the provisions of the Service Regulation or, as appropriate, the Hague Convention (including Articles 8 to 11 thereof) and this Order.

PART V

RECOVERY OF MAINTENANCE

Maintenance Act 1994 — Part II

Reciprocating Jurisdictions

Enforcement Order

26. If a judgment or an instrument or settlement referred to in Articles 50 or 51 of the Brussels Convention or, as the case may be, Articles 57 or 58 of the Lugano Convention does not relate solely to maintenance, these Rules shall apply only to those parts that relate to maintenance, and upon receipt of an enforcement order made by the High Court, in relation thereto, the Clerk shall proceed as indicated in rule 27.

27. Where, pursuant to section 7(1) of the Act of 1994, the Central Authority under the 1994 Act, on receipt of an application for the recognition or enforcement in the State of a maintenance order which has been transmitted by the Central Authority of a reciprocating jurisdiction, sends the application to—

- (a) the Master of the High Court for determination in accordance with section 7 of the Act of 1998, or
- (b) the High Court for determination in accordance with Articles 31 and 32 of the Brussels Convention or, as the case may be, Articles 38 and 39 and Annex II of the Lugano Convention

and, where an enforcement order is made under sections 7(2) or 7(7) of the Act of 1994, as appropriate, and the orders are sent to the appropriate District Court Clerk, such clerk shall register the documents and proceed to enforce the enforceable maintenance order in accordance with the provisions of this Order.

PART VI

RECOVERY OF MAINTENANCE

Maintenance Act 1994

Designated Jurisdictions

The New York Convention

28. Where the Central Authority under the 1994 Act receives a request from a central authority of a designated jurisdiction on behalf of a claimant for the recovery of maintenance from a person for the time being residing in the State

(“the respondent”), and such request being accompanied by an order of a Court in a Contracting State (within the meaning of the Act of 1998), the Central Authority under the 1994 Act transmits the request pursuant to section 14(1)(a) of the Act of 1994 to the Master of the High Court for determination in accordance with section 7 of the Act of 1998, and where the Master, having made an enforcement order in respect of the maintenance order, sends those orders to the appropriate District Court Clerk, such Clerk shall proceed as indicated in rule 27.

29. (1) Where the Central Authority under the 1994 Act receives a request referred to in rule 28 and such request is accompanied by an order made by any other Court and the Central Authority under the 1994 Act is of opinion that the order may be enforceable in the State, the Central Authority under the 1994 Act may apply pursuant to section 14(1)(b) of the Act of 1994 at any sitting of the District Court for the relevant court district (as set out in section 14(11) of the Act of 1994) for the enforcement of the order.

(2) Such application shall be preceded by the issue and service of a notice, in the Form 62.9 Schedule C upon the respondent. The notice shall be accompanied by a copy of the documents mentioned in section 14(6) of the Act of 1994. Service shall be effected by registered post at least 21 days prior to the date of hearing of the application.

(3) When service has been effected, the applicant shall lodge with the Clerk the original of the notice, together with a statutory declaration as to service thereof and the certificate of posting, at least four days prior to the said date of hearing.

Clerk to send copy orders

(4) Where, upon hearing the application, the Court makes an order for the enforcement of the order of the court in the designated jurisdiction for the recovery of maintenance, such order of the Court shall be in the Form 62.10, Schedule C, and copies thereof shall be sent by the Clerk to the Central Authority under the 1994 Act and the respondent.

and enforce order

(5) When the Court makes such an order the Clerk shall proceed to enforce the enforceable maintenance order as indicated in rule 27.

Enforcement Procedure where not accompanied by order

30. (1) Where the Central Authority under the 1994 Act receives a request referred to in rule 27 and either—

(a) such request is not accompanied by an order referred to in rule 27 or in rule 28, or

(b) enforcement of the order is refused,

—application to District Court

and the Central Authority under the 1994 Act intends to make an application to the District Court pursuant to section 14 (1)(c)(ii) of the Act of 1994, for the

recovery of maintenance in accordance with the request, such application may be made at any sitting of the Court for the relevant Court District (as set out in section 14(11) of the Act of 1994) and shall be deemed (as provided in section 14(3) of that Act) to be an application for a maintenance order under section 5, 5A or 21A of the Act of 1976, as appropriate.

—*on notice*

(2) The application shall be preceded by the issue and service of a notice, in the Form 62.11 Schedule C upon the respondent. The notice shall be accompanied by copies of the documents mentioned in section 14(6) of the Act of 1994. Service shall be effected by registered post at least 21 days prior to the date of hearing of the application.

(3) When service has been effected, the applicant shall lodge with the Clerk the original of the notice, together with the certificate of posting, at least four days prior to the said date of hearing.

(4) Where, upon hearing the application, the court makes a maintenance order, the Clerk shall proceed in accordance with the relevant provisions of Order 54 and this Order, and the forms therein provided (with any necessary modifications) may be used.

31. Where the court, on an application to it under section 14(1)(c) of the Act of 1994, takes evidence from the respondent on sworn deposition, such deposition shall be in the Form 62.12 Schedule C. A copy thereof shall be sent by the Clerk to the Central Authority under the 1994 Act for transmission to the central authority of the designated jurisdiction with a request that the claimant provide an answering affidavit.

32. Where, at the hearing of an application under section 14(1)(c) of the Act of 1994, the Court makes an order pursuant to section 14(7) of that Act transferring the proceedings to a district court district where facilities are available for taking the evidence of the claimant or of any witness through a live television link, such order shall be in the Form 62.13 Schedule C. The Clerk shall forward a copy thereof, together with any other documents in his or her possession relating to the proceedings, to the appropriate District Court Clerk.

33. A request by the claimant to give evidence on sworn deposition before the District Court pursuant to section 15(2)(a) of the Act of 1994 may be made at any sitting of the Court for the district court district in which the claimant resides or carries on any profession, business or occupation. A deposition, taken under that provision shall be in the Form 62.14 Schedule C and the certificate of the Court required under that provision (which may be added at the foot of the deposition) shall be in the Form 62.15 Schedule C. A certified copy of the deposition and certificate shall be given by the Clerk to the claimant.

34. The certificate to be given by the Clerk to a claimant on request, pursuant to section 15(3)(b) of the Act of 1994, shall be in the Form 62.16 Schedule C.

35. (1) Subject to the provisions of section 19(8) of the Act of 1994, where on request from the Master of the High Court, pursuant to section 19(2) of the Act of 1994, a Judge of the District Court proposes to take the evidence of a person for the purposes of proceedings in a designated jurisdiction for the recovery of maintenance, the Clerk shall issue and serve notice, in the Form 62.17 Schedule C upon the person concerned, the Central Authority under the 1994 Act, the Master of the High Court and upon such other persons as the judge thinks fit. The notice shall be served by registered post at least 21 days prior to the date fixed for taking the evidence.

(2) Where such evidence is taken on sworn deposition, the deposition shall be in the Form 62.18 Schedule C. The Clerk shall send a certified copy thereof to the Central Authority under the 1994 Act for transmission to the requesting authority.

(3) Where, as provided for in section 19(9) of the Act of 1994, the requesting authority makes a request for the taking of evidence directly to the District Court, the provisions of this rule shall, with any necessary modifications, apply in relation to such a request.

(4) If it is not possible to take the evidence within four months of the receipt of the request by the Central Authority under the 1994 Act, the Judge shall certify in the Form 62.21 Schedule C the reasons for the non-execution of the request or for the delay in executing it and the Clerk shall send the same to the Central Authority under the 1994 Act for transmission to the requesting authority.

PART VII

MISCELLANEOUS PROVISIONS APPLICABLE TO PROCEEDINGS TO WHICH PARTS II TO VI REFER

Currency of payments

36. An amount payable in the State under—

- (a) a decision recognised within the meaning of Article 17.1 of the Maintenance Regulation;
- (b) an enforceable maintenance order by virtue of an enforcement order as provided for in the 2011 Regulations, or
- (c) an order for recovery of maintenance which is made by a Court in a jurisdiction other than the State and is enforceable in the State as provided for in the Act of 1994,

shall be paid in the currency of the State and if the amount is stated in the decision, enforceable maintenance order or order for recovery, as the case may be, in a currency other than the currency of the State, the payment shall be made on the basis of the exchange rate prevailing on the date of the making of the enforcement order or of the order of a court in the State for the enforcement

of the decision for the recovery of maintenance between that other currency and the currency of the State.

Clerk to give receipt for and transmit payments

37. (1) The District Court Clerk shall give, or send by ordinary post, to the maintenance debtor a receipt for each payment made by him or her under an order referred to in rule 36 and shall transmit such payment forthwith by registered post, by insured post or by any other appropriate method to the person entitled to receive it, having due regard to the provisions of subsections 2(a) and 2(b) of section 4 of the Act of 1994, where applicable.

(2) Before transmitting any such payment abroad the Clerk shall comply with any Exchange Control regulations for the time being in force governing the transmission of such payments and shall, where necessary for that purpose, produce the order referred to in rule 36 to an authorised dealer, (i.e. a licensed bank) for inspection.

Venue for proceedings by creditor

38. (1) Proceedings by or on behalf of the maintenance creditor being brought in the District Court under the 2011 Regulations and the Maintenance Regulation for the enforcement of an enforceable maintenance order, may be brought, heard and determined:

- (a) in case the maintenance debtor under the enforceable maintenance order concerned resides in the State or is deemed under Regulation 6 of the 2011 Regulations to be habitually resident in the Dublin Metropolitan District, at any sitting of the Court for the court district in which the maintenance debtor habitually resides or, as the case may be, is deemed to be habitually resident, in accordance with Regulation 10(7)(a) of the 2011 Regulations;
- (b) in case the maintenance debtor does not reside in the State but is in the employment either of a person residing or having a place of business in the State or of a body whose seat of management or control is in the State, at any sitting of the Court for the court district in which that person resides or, as the case may be, the body has its seat, in accordance with Regulation 10(7)(b) of the 2011 Regulations.

(2) Proceedings being brought by the maintenance creditor by virtue of Article 2 of either the Brussels Convention or the Lugano Convention for the variation of a maintenance order made in a Contracting State other than the State may be brought, heard and determined at any sitting of the Court for the court district in which the maintenance debtor is domiciled.

PART VIII

MISCELLANEOUS PROVISIONS APPLICABLE TO PROCEEDINGS TO WHICH PARTS II, IV AND V REFER

39. (1) An application by the Central Authority under the Maintenance Regulation to the Court under Regulation 19(2) of the 2011 Regulations for an

order requiring a person or body (not being a person or body mentioned in Regulation 19(1) of the 2011 Regulations) to provide to the Central Authority under the Maintenance Regulation information as to the whereabouts, place of work, or location and extent of the assets, of a maintenance creditor or debtor (within the meaning of the 2011 Regulations) may be made at any sitting of the Court for the court district in which the person or body to whom the order sought is to be directed resides or carries on any profession, business or occupation. Notice of such application in the Form 62.19 Schedule C shall be lodged with the Clerk at least four days prior to the date of hearing.

(2) Where the Court grants the application and makes the order sought, such order shall be in the Form 62.20 Schedule C and the Central Authority shall forward a copy thereof to the person or body concerned.

40. (1) An application by the Central Authority under the 1994 Act to the Court under section 20(2) of the Act of 1994 for an order requiring a person or body (not being a person or body mentioned in section 20(1) of that Act) to provide to the Central Authority under the 1994 Act information as to the whereabouts, place of work, or location and extent of the assets of a maintenance debtor (within the meaning of the Act of 1998) or respondent may be made at any sitting of the Court for the court district in which the person or body to whom the order sought is to be directed resides or carries on any profession, business or occupation. Notice of such application in the Form 62.19 Schedule C shall be lodged with the Clerk at least four days prior to the date of hearing.

(2) Where the Court grants the application and makes the order sought, such order shall be in the Form 62.20 Schedule C and the Central Authority shall forward a copy thereof to the person or body concerned.”

SCHEDULE 2

SCHEDULE C

O. 62, rr. 5(2), 5(3), 5(6), 13(2), 13(3), 13(5), 19, 25(1)

No. 62.1

ÉIRE
IRELAND

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

In the matter of

*Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgment in civil and commercial matters.

*The Convention of the European Communities on jurisdiction and the enforcement of judgments in civil and commercial matters (and the Protocol annexed thereto) signed at Brussels on the 27th day of September, 1968.

*The Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October, 2007.

*Council Regulation (EC) 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations.

NOTICE OF INSTITUTION OF PROCEEDINGS

Between

of Plaintiff

and

of Defendant

YOU ARE HEREBY GIVEN NOTICE that proceedings have been instituted against you, the above-named defendant, *domiciled *habitually resident at by the above-named Plaintiff, *(ordinarily resident) *(carrying on a profession/business/occupation) *(habitually resident) at *(in the District Court area aforesaid), claiming as follows:-

[insert particulars of claim from civil summons, maintenance summons or other relevant originating document]

The proceedings have been listed for hearing at the sitting of the District Court to be held at.....on the.....day of.....20..... ata.m./p.m.

IF YOU INTEND TO APPEAR OR TO BE REPRESENTED AT THE HEARING OF THESE PROCEEDINGS you (or your solicitor) should complete

and sign the two Notices of Intention to Appear attached hereto, post one to the District Court Clerk at the address shown below so soon as to reach his or her office not later than four days before the above-mentioned date of hearing and post the other to the plaintiff or the solicitor for the plaintiff.

†AND TAKE NOTICE that you are required to deliver a defence to the plaintiff's claim not later than 28 days after the date of receipt of this notice

IF YOU FAIL TO RETURN THE ATTACHED NOTICES THE COURT MAY IN CERTAIN CIRCUMSTANCES PROCEED TO HEAR AND DETERMINE THE PROCEEDINGS WITHOUT FURTHER NOTICE TO YOU:

Dated this day of 20....

Signed

District Court Clerk for the above-named district court area,

District Court Office at.....
IRELAND

To

of

the above-named defendant.

These proceedings have been issued *(by the Plaintiff) *(by.....
solicitors of, Solicitors for the Plaintiff)

*delete where inapplicable
†in personal injuries proceedings

.....detach this page.....

District Court Area of

District No.

Between

of Plaintiff

and

of Defendant

NOTICE OF INTENTION TO APPEAR

TAKE NOTICE THAT (the Defendant)

domiciled at

INTENDS TO APPEAR (or) TO BE REPRESENTED at the hearing of the proceedings brought against him/her by (the Plaintiff)

of

and which are listed for hearing at the sitting of the District Court to be held at on the day of 20..... ata.m./p.m.

*(FOR THE PURPOSE OF DEFENDING THE PROCEEDINGS)

(FOR THE PURPOSE SOLELY OF CONTESTING THE JURISDICTION OF THE COURT)(AND IN THE EVENT OF THE COURT NOT DECLINING JURISDICTION FOR THE PURPOSE OF DEFENDING THE PROCEEDINGS).

Any further communications regarding these proceedings should be forwarded * (to the defendant at the above address) *(to at)

Dated this..... day of 20.....

Signed.....

*Defendant/*Solicitor for Defendant

of

To: District Court Clerk,

District Court Office,

at

IRELAND

*delete where inapplicable

No. 62.1 (continued)

.....detach this page.....

District Court Area of

District No.

Between

of Plaintiff

and

ofDefendant

NOTICE OF INTENTION TO APPEAR

TAKE NOTICE THAT (the Defendant)

domiciled at

INTENDS TO APPEAR (or) TO BE REPRESENTED at the hearing of the proceedings brought against him/her by (the Plaintiff)

of

and which are listed for hearing at the sitting of the District Court to be held at on the day of 20.....at..... a.m./p.m.

*(FOR THE PURPOSE OF DEFENDING THE PROCEEDINGS)

(FOR THE PURPOSE SOLELY OF CONTESTING THE JURISDICTION OF THE COURT)(AND IN THE EVENT OF THE COURT NOT DECLINING JURISDICTION FOR THE PURPOSE OF DEFENDING THE PROCEEDINGS).

Any further communications regarding these proceedings should be forwarded * (to the defendant at the above address) *(to

Dated this day of 20.....

Signed.....

*Defendant/*Solicitor for Defendant

of

To: District Court Clerk,

District Court Office,

at

IRELAND

*delete where inapplicable

ÉIRE IRELAND

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area

District No.

In the matter of

*Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgment in civil and commercial matters (the "Jurisdiction Regulation").

*The Convention of the European Communities on jurisdiction and the enforcement of judgments in civil and commercial matters (and the Protocol annexed thereto) signed at Brussels on the 27th day of September, 1968 (the "Brussels Convention").

*The Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October, 2007 (the "Lugano Convention").

*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").

CERTIFICATE AS TO COURT'S JURISDICTION

Between..... of Plaintiff

and..... of Defendant

I *(the Plaintiff) *(solicitor for Plaintiff) do hereby certify:

1. that the claim(s) made in the document instituting the above-named proceedings which was lodged with this certificate *is a claim/*are claims which under the * (Jurisdiction Regulation) *(Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act 1998) *(Maintenance Regulation), the Court has power to hear and determine by virtue of the provisions of Article(s)of *(the Jurisdiction Regulation) *(the Brussels Convention) *(the Lugano Convention) *(Maintenance Regulation),

2. that the claim(s) brought by the Plaintiff *is a claim/*are claims which the Court has jurisdiction to hear and determine by reason of the fact(s) that **

3. that no proceedings involving the same cause of action are pending between the parties in another *Member State *Contracting State.

Dated this day of 20.....

Signed *Plaintiff/*Solicitor for Plaintiff

*delete where inapplicable

**for examples of clauses which might be inserted here see overleaf

No. 62.2 (continued)

****EXAMPLES OF CLAUSES WHICH MIGHT BE USED, AS APPROPRIATE, IN RECITAL No. 2 ON FORM 62.2**

— the defendant is domiciled *(in the District Court Area above-named within the jurisdiction of the Honourable Court) *(in the Member State/Contracting State of)

— the claim against the defendant arises out of a contract and the place for performance of the obligations under the contract is within the jurisdiction of the Honourable Court and therefore, by virtue of Article 5.1 of the *(Jurisdiction Regulation) *(Brussels Convention) *(Lugano Convention) above-named, the Court has jurisdiction.

— the claim against the defendant is a claim in tort and the harmful event giving rise to the cause of action occurred within the jurisdiction of the Honourable Court.

— the claim against the defendant relates to and/or arises out of the operation of a branch, agency or other establishment of the defendant which said branch, agency or establishment is situated within the jurisdiction of the Honourable Court.

— the claim against the defendant is a claim in which the plaintiff is a policy holder under a policy of insurance and it is therefore a claim to which *(Article 9 of the Jurisdiction Regulation) *(Article 9 of the Lugano Convention) *(Article 8.2 of the Brussels Convention) applies. The Plaintiff is ordinarily resident/carries on a profession, business or occupation in the District Court Area above-named within the jurisdiction of the Honourable Court.

— the claim against the defendant is brought by the plaintiff in his/her capacity as a consumer in relation to a consumer contract to which *(Article 16 of the Jurisdiction Regulation) *(Article 16 of the Lugano Convention) *(Article 14 of the Brussels Convention) applies. The plaintiff is ordinarily resident/carries on a profession, business or occupation in the District Court Area above-named within the jurisdiction of the Honourable Court.

— the claim against the defendant is a claim to which *(Article 22 of the Jurisdiction Regulation) *(Article 22 of the Lugano Convention) *(Article 16 of the Brussels Convention) (relating to exclusive jurisdiction) applies and the Honourable Court has exclusive jurisdiction to hear and determine the claim because

(give details as in relevant provisions of Article 22/Article 16)

— the claim against the defendant arises out of a contract/agreement made between the plaintiff and the defendant which provided, *inter alia*, that the Honourable Court was to have jurisdiction in relation to matters arising thereout and, by virtue of *(Article 23 of the Jurisdiction Regulation) *(Article 23 of the Lugano Convention) *(Article 17 of the Brussels Convention), the Honourable Court is entitled to assume jurisdiction.

— The plaintiff's claim is a claim relating to maintenance obligations and the plaintiff is habitually resident in the District Court Area above-named and the claim is within the jurisdiction of the Honourable Court by virtue of Article 3(b) of the Maintenance Regulation.

— The plaintiff's claim is a claim relating to maintenance obligations and the said claim is ancillary to proceedings concerning the status of a person (*specify the*

proceedings concerned) which proceedings are within the jurisdiction of the Honourable Court by virtue of (*specify the basis of the court's jurisdiction*) and accordingly the claim relating to maintenance obligations is within the jurisdiction of the Honourable Court by virtue of Article 3(c) of the Maintenance Regulation.

— The plaintiff's claim is a claim relating to maintenance obligations and the said claim is ancillary to proceedings concerning parental responsibility (*specify the proceedings concerned*) which proceedings are within the jurisdiction of the Honourable Court by virtue of (*specify the basis of the court's jurisdiction*) and accordingly the claim relating to maintenance obligations is within the jurisdiction of the Honourable Court by virtue of Article 3(d) of the Maintenance Regulation.

— The plaintiff's claim is a claim relating to maintenance obligations and the parties have agreed in accordance with Article 4 of the Maintenance Regulation the Honourable Court shall have jurisdiction to settle any disputes in matters relating to a maintenance obligation which have arisen or may arise between them, and the court is a court mentioned in Article 4.1*(a)*(b)*(c) of the Maintenance Regulation.

SCHEDULE C
O.62, r.9 (1) (b), 9 (2)

No. 62.3

ÉIRE
IRELAND

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

In the matter of

*Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgment in civil and commercial matters (the "Jurisdiction Regulation").

*Council Regulation (EC) No. 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

*The Convention of the European Communities on jurisdiction and the enforcement of judgments in civil and commercial matters (and the Protocol annexed thereto) signed at Brussels on the 27th day of September, 1968 (the "Brussels Convention").

*The Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October, 2007 (the "Lugano Convention").

*The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters signed at The Hague on the 15th day of November, 1965.

*Section 14 of the Jurisdiction of Courts and Enforcement of Judgments Act 1998.

CERTIFICATE BY DISTRICT COURT CLERK

Between

.....

of Plaintiff

and

of Defendant

I,, the District Court Clerk for the above named District Court area, do hereby certify as follows:-

1. that the above-named proceedings were in respect of a claim by the plaintiff against the defendant brought before this Court on the day of20.... by * (civil) summons issued on the..... day of20.... claiming as follows.

2. that *(the document instituting the proceedings) *(notice of the institution of the proceedings) was served upon the defendant on the..... day of20.... in the following manner-

3. that the defendant *(appeared) *(did not appear) at the hearing of the proceedings.

4. that the defendant *(was represented) *(was not represented) at the hearing of the proceedings.

5. that the Court assumed jurisdiction in the proceedings pursuant to the provisions of Article(s)..... of *(the Jurisdiction Regulation) *(the Brussels Convention) *(the Lugano Convention), on the grounds that—

6. that the Court gave judgment against the *(defendant) *(plaintiff) as follows:—

*7 that the said judgment carries interest at the rate of percent per annum on the judgment debt only (exclusive of costs and expenses) that is to say, on the sum of €.....from the day of20..... until it is paid.

8. that *(notice of appeal against) *(notice to set aside) the judgment *(has been entered) *(has not been entered).

9. that the time for lodging an appeal against the judgment *(expired) *(will expire) on the..... day of20.....

10. that enforcement of the judgment is not for the time being stayed or suspended and that the time available for its enforcement has not expired.

Dated this..... day of20.....

Signed

District Court Clerk for the above-named district court area,

District Court Office at
IRELAND

No. 62.4

ÉIRE
IRELAND

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

In the matter of

*Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgment in civil and commercial matters (the “Jurisdiction Regulation”).

*Council Regulation (EC) No. 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

*The Convention of the European Communities on jurisdiction and the enforcement of judgments in civil and commercial matters (and the Protocol annexed thereto) signed at Brussels on the 27th day of September, 1968 (the “Brussels Convention”).

*The Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October, 2007 (the “Lugano Convention”).

*The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters signed at The Hague on the 15th day of November, 1965.

CERTIFICATE THAT JUDGMENT IS ENFORCEABLE IN THE STATE AND HAS BEEN SERVED

Between

of Plaintiff

and

of Defendant

I the District Court Clerk for the above-named District Court area, do hereby certify as follows:-

1. that the judgment given in the above-named proceedings at the sitting of the District Court held at.....on the day of20.....is enforceable in this State, and

No. 62.4 (continued)

2. that on the..... day of20..... a copy of the said judgment was served by registered/insured post upon the defendant at the following address—

Dated this..... day of 20.....

Signed

District Court Clerk for the above-named district court area,

District Court Office at

IRELAND

Schedule C
0.62, r.10 (2)

No. 62.4A

ÉIRE
IRELAND

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

Certificate referred to in Articles 54 and 58 of the †Regulation †Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

- 1. Member State of origin — IRELAND
- 2. Court or competent authority issuing the certificate — DISTRICT COURT

2.1. Name

2.2. Address

2.3. Tel./fax/e-mail

3. Court which delivered the judgment/approved the court settlement (*)

3.1. Type of court

3.2. Place of court

4. Judgment/court settlement (*)

4.1. Date

4.2. Reference number

4.3. The parties to the judgment/court settlement (*)

4.3.1. Name(s) of plaintiff(s)

4.3.2. Name(s) of defendant(s)

4.3.3. Name(s) of other party(ies), if any

4.4. Date of service of the document instituting the proceedings where judgment was given in default of appearance

4.5. Text of the judgment/court settlement (*) as annexed to this certificate

5. Names of parties to whom legal aid has been granted

The judgment/court settlement (*) is enforceable in the Member State of origin (Article 38/ 58 of the †Regulation †Convention) against:

Name:

Done at....., this.....day of..... 20.....

Signature and/or stamp.....

District Court Clerk

(*) Delete as appropriate.

† Delete where inapplicable.

ÉIRE
IRELAND

District Court Area of

District No.

In the matter of

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").

the European Communities (Maintenance) Regulations 2011 (S.I. No. 274 of 2011)

To

of

Maintenance debtor

ENDORSEMENT

This notice is issued to you as maintenance debtor, by the District Court. If you the maintenance debtor fail to make a payment due under the enforceable maintenance order details of which are given below, a summons may be issued for you to attend before the District Court.

If you are concerned that you may not be able to comply with the terms of the enforceable maintenance order, you should seek legal advice. The District Court cannot vary the terms of the enforceable maintenance order.

Under Regulation 10(14) of the above-named Regulations of 2011, you are required to notify the District Court Clerk named below of any change in your address. Failure, without reasonable excuse, to do so is an offence punishable on summary conviction by a class C fine.

NOTICE CONCERNING SUMS PAYABLE UNDER AN ENFORCEABLE
MAINTENANCE ORDER

Between

of Maintenance Creditor

and.....

of Maintenance Debtor

YOU ARE HEREBY GIVEN NOTICE that the sums, particulars of which are set out below, payable by you, the above-named Maintenance Debtor, under a *(decision) *(maintenance order) *(made) *(as varied) on the..... day of..... 20.... by £.....and in respect of which an enforcement order has been made by the Master of the High Court, Dublin on the day of..... 20.... are by virtue of Regulation 10(8) of the above-named Regulations of 2011 payable to the District Court Clerk for the above-named District Court area for transmission to the Maintenance Creditor.

Sums payable under the order (including payments in respect of any sums due at the date of the receipt by you of this notice) should until further notice be paid in Irish currency (euro) to

The District Court Clerk,

District Court Office,

at

whose office hours are from..... to..... Monday to Friday each week.

Dated this day of 20.....

Signed

District Court Clerk for the above-named District Court area,

District Court Office

at

IRELAND

PARTICULARS OF SUMS DUE

(Set out the details)

Total amount due in Irish currency at the date of this notice (including any arrears, costs and expenses): €.....

In addition to this last-named sum you are obliged to pay €..... per week in accordance with the terms of the order and the provisions of the above-named Regulations of 2011.

*delete where inapplicable
‡State Court which made order

ÉIRE
IRELAND

District Court Area of

District No.

In the matter of

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").

the European Communities (Maintenance) Regulations 2011 (S.I. No. 274 of 2011)

To

of

Maintenance debtor

ENDORSEMENT

This notice is issued to you as maintenance debtor, by the District Court. If you the maintenance debtor fail to make a payment due under the decision details of which are given below, a summons may be issued for you to attend before the District Court.

If you are concerned that you may not be able to comply with the terms of the decision, you should seek legal advice. The District Court cannot vary the terms of the decision.

Under Regulation 10(14) of the above-named Regulations of 2011, you are required to notify the District Court Clerk named below of any change in your address. Failure, without reasonable excuse, to do so is an offence punishable on summary conviction by a class C fine.

NOTICE CONCERNING SUMS PAYABLE UNDER AN ENFORCEABLE
MAINTENANCE ORDER

Between.....

of Maintenance Creditor

and.....

of Maintenance Debtor

YOU ARE HEREBY GIVEN NOTICE that the sums, particulars of which are set out below, payable by you, the above-named Maintenance Debtor, under a decision recognised within the meaning of Article 17.1 of the Maintenance Regulation *(made) *(as varied) on the..... day of..... 20.... by ‡..... are:

*by virtue of the said decision payable to the Maintenance Creditor.

*by virtue of Regulation 10(8) of the European Communities (Maintenance) Regulations 2011 payable to the District Court Clerk for the above-named District Court area for transmission to the Maintenance Creditor.

Sums payable under the order (including payments in respect of any sums due at the date of the receipt by you of this notice) should until further notice be paid in Irish currency (euro) to

The District Court Clerk,
District Court Office,

at

whose office hours are from..... to..... Monday to Friday each week.

Dated this ... day of 20....

Signed

District Court Clerk for the above-named District Court area,

District Court Office

at

IRELAND

PARTICULARS OF SUMS DUE
(Set out the details)

Total amount due in Irish currency at the date of this notice (including any arrears, costs and expenses): €.....

In addition to this last-named sum you are obliged to pay €..... per week in accordance with the terms of the decision and the provisions of the above-named Regulations of 2011.

*delete where inapplicable
‡State Court which made order

In the matter of 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 the European Communities (Maintenance) Regulations 2011 (S.I. No. 274 of 2011).

CERTIFICATE OF ARREARS

District Court Area of District No.

.....Maintenance Creditor

.....Maintenance Debtor

I HEREBY CERTIFY that the sums payable to the District Court Clerk for the above-named district court area by the above-named maintenance debtor now residing at for transmission to the above-named maintenance creditor, domiciled at..... under a maintenance order *(made) *(as varied) on the.....day of.....20...by ‡.....

*and in respect of which an enforcement order was made by the Master of the High Court on the.....day of.....20.....,

*and which is a decision recognised within the meaning of Article 17.1 of the Maintenance Regulation,

*[have not been paid in full and that there is according to the best of my information and belief, in arrears the sum of €.....being the amount of weekly payments which have become due and payable up to and including the.....day of.....20..... (together with the sum of €.....for costs and expenses,

making in all the total sum of €.....)].

*[have been paid in full up to and including the.....day of.....20..... and that there are no such sums in arrears at the date of this certificate.]

Dated this day of 20.....

Signed

District Court Clerk for the above-named district court area,

District Court Office at.....

IRELAND

*delete where inapplicable

‡State Court which made order

No. 62.7

ÉIRE
IRELAND

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

In the matter of

*(Article 2) *(Article 5.2) of *The Convention of the European Communities on jurisdiction and the enforcement of judgments in civil and commercial matters (and the Protocol annexed thereto) signed at Brussels on the 27th day of September, 1968 (the “Brussels Convention”).

*The Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October, 2007 (the “Lugano Convention”).

And in the matter of

Section 9 of the Jurisdiction of Courts and Enforcement of Judgments Act 1998

SUMMONS TO *VARY *REVOKE A MAINTENANCE ORDER

Between
of Maintenance Creditor

and
of Maintenance Debtor

YOU ARE HEREBY REQUIRED TO APPEAR at the sitting of the District Court to be held at on the.....day of..... 20... at a.m./p.m. upon the hearing of an application by the above-named *(maintenance creditor) *(maintenance debtor) residing at.....(in the court area and district aforesaid) to have the maintenance order which was made on theday of..... 20...by †..... whereby

the above-named maintenance debtor was ordered to pay ††

*(being an order in respect of which an enforcement order was made on the.....day of..... 20...by the Master of the High Court at Dublin).

*VARIED *REVOKED on the following grounds-

IF YOU INTEND TO APPEAR OR TO BE REPRESENTED AT THE HEARING OF THESE PROCEEDINGS you (or your solicitor) should complete and sign the two Notices of Intention to Appear attached hereto, post one to the District Court Clerk at the address shown below so soon as to reach his or her office not later than four days before the above-named date of hearing, and post the other notice to the other party in the proceedings or to that party's solicitor, as the case may be.

IF YOU FAIL TO RETURN THE ATTACHED NOTICES THE COURT MAY IN CERTAIN CIRCUMSTANCES PROCEED TO HEAR AND DETERMINE THE PROCEEDINGS WITHOUT FURTHER NOTICE TO YOU.

Dated this day of..... 20.....

Signed

District Court Clerk for the above-named district court area,

District Court Office at.....

IRELAND

To

of

*(in the court area and district aforesaid)

*(maintenance creditor)

*(maintenance debtor)

Add two Notices of Intention to Appear as in Form 62.1

*delete where inapplicable

†state court which made order

†† give details of the order

SCHEDULE C
O. 62, r. 25

No. 62.8

ÉIRE
IRELAND

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

In the matter of *(Article 2) *(Article 5.2) of

*The Convention of the European Communities on jurisdiction and the enforcement of judgments in civil and commercial matters (and the Protocol annexed thereto) signed at Brussels on the 27th day of September, 1968 (the “Brussels Convention”).

*The Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, done at Lugano on the 30th day of October, 2007 (the “Lugano Convention”).

And in the matter of

Section 9 of the Jurisdiction of Courts and Enforcement of Judgments Act 1998

ORDER *VARYING *REVOKING A MAINTENANCE ORDER

Between

of Maintenance Creditor

and

of Maintenance Debtor

WHEREAS by maintenance order dated the day of..... 20.... made by †

**(in respect of which an enforcement order was made on the day of 20...by the Master of the High Court at Dublin) the above-named maintenance debtor now residing at*(in court area and district aforesaid) was ordered to pay to the above-named maintenance creditor, now residing at*(in court area and district aforesaid) the sum of €*

AND WHEREAS an application was made by summons to this Court today by the *(maintenance creditor) *(maintenance debtor) for an order *varying *revoking the said maintenance order,

AND HAVING HEARD the evidence tendered by or on behalf of the *(maintenance creditor) *(and) *(maintenance debtor),

AND BEING SATISFIED

(1) that the *(summons) *(notice of the institution of these proceedings) was duly served upon the *(maintenance creditor) *(maintenance debtor) residing at on the day of..... 20.....

(2) that the *summons *notice was served in sufficient time to enable the party served to arrange for a defence,

(3) that the *summons *notice included a statement of the substance of the said application,

THE COURT HEREBY ORDERS THAT THE SAID MAINTENANCE ORDER

*BE REVOKED

*BE VARIED AS FOLLOWS

Dated this day of 20.....

Signed:

Judge of the District Court

*delete where inapplicable
†state court which made order

SCHEDULE C
O.62, rr. 39(1), 40(1)

No. 62.19

*MAINTENANCE ACT 1994, Section 20(2)

*EUROPEAN COMMUNITIES (MAINTENANCE) REGULATIONS 2011 (S.I.
No. 274 of 2011), Regulation 19(2)

NOTICE OF APPLICATION FOR AN ORDER TO PROVIDE INFORMATION

District Court Area of District No.

..... Applicant (Central Authority)

..... of

..... in said court *(area and) district

The *person *body to whom the order sought is to be directed

WHEREAS the above named Central Authority considers that you the above-named *person *body (not being a *person *body mentioned in *section 20(1) of the above-named Act *Regulation 19(1) of the above-named Regulations) are likely to have information as to the *whereabouts/*place of work/*location and extent of the assets of..... of..... a *maintenance debtor *respondent *maintenance creditor, and that it requires that information for the purposes of obtaining any information that is necessary or expedient for the performance of its function,

TAKE NOTICE that the Central Authority will make an application under

*section 20(2) of the said Act

*Regulation 19(2) of the said Regulations

at the sitting of the District Court to be held at..... on the day of 20.... ata.m./p.m. for an order that you provide to the Central Authority such information within such period as may be specified in the order.

Dated this day of 20.....

Signed.....
(for) Applicant

To

of
(the above-named *person *body)

*Delete words inapplicable

No. 62.20

MAINTENANCE ACT 1994, Section 20(2)

*EUROPEAN COMMUNITIES (MAINTENANCE) REGULATIONS 2011 (S.I.
No. 274 of 2011), Regulation 19(2)

ORDER TO PROVIDE INFORMATION

District Court Area of District No.
..... Applicant (Central Authority)
..... of.....
..... in said court *(area and) district

The *person *body to whom the order sought is to be directed

UPON HEARING an application made to this Court on this date by the Central Authority above-named for an order under

*section 20(2) of the above-named Act

*Regulation 19(2) of the above-named Regulations

requiring the *person *body above-named to provide certain information to the said Central Authority,

THE COURT being satisfied that notice of the application was duly served upon that *person *body, being of opinion that the said *person *body (not being a *person *body mentioned in *section 20(1) of the said Act *Regulation 19(2) of the said Regulations) is likely to have information as to the matters referred to in the said *section 20(1) *Regulation 19(1) and that the Central Authority requires the information for the purposes of obtaining any information that is necessary or, expedient for the performance of its functions,

HEREBY ORDERS pursuant to

*section 20(2) of the said Act

*Regulation 19(2) of the said Regulations

that..... (the *person *body above-named) do provide to the Central Authority, within the period of..... from the date of this order, any information in his/her possession or procurement as to the *whereabouts/* place of work/ *location and extent of assets of..... a *maintenance debtor *respondent *maintenance creditor.

Dated this..... day of 20.....

Signed.....
Judge of the District Court

*Delete words inapplicable

EXPLANATORY NOTE

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

These Rules amend the District Court Rules by the deletion of Order 55 and associated forms and the substitution of Order 62 and associated forms, to facilitate the operation of the 2007 Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and 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”).

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

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