



STATUTORY INSTRUMENTS.

**S.I. No. 17 of 2014**



DISTRICT COURT (CIVIL PROCEDURE) RULES 2014

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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, and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 20th day of January 2014.

Rosemary Horgan Chairperson

Brian Sheridan

Conal Gibbons

Anne Watkin

Fiona Twomey

Mark Harty

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 27th day of January 2014.

ALAN SHATTER  
Minister for Justice and Equality

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 31st January, 2014.*

## S.I. No. 17 of 2014

## DISTRICT COURT (CIVIL PROCEDURE) RULES 2014

*1. Title and citation*

1. (1) These Rules, which may be cited as the District Court (Civil Procedure) Rules 2014, shall come into operation on the 3rd day of February 2014.

(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 2014.

*2. Amendments*

2. (1) The provisions set out in Schedule 1 shall be substituted for the “Interpretation of Terms” provisions of the District Court Rules 1997.

(2) The following provisions shall be deleted from the District Court Rules 1997, namely Order 8, rule 3; Order 9; Orders 39 to 53C inclusive; Order 62; Order 99 and Order 100.

(3) The provisions set out in Schedule 2 shall be inserted to the District Court Rules 1997 immediately following Order 38.

(4) The Schedule of Costs set out in Schedule 3 shall be substituted for the Schedule of Costs and the Schedule of Counsel’s Fees to the District Court Rules 1997.

(5) Orders 10 and 12 respectively set out in Schedule 4 shall be substituted for Orders 10 and 12 of the District Court Rules 1997.

*3. Replacement of forms*

3. (1) Forms 7.1 to 7.6 inclusive, Forms 39.1 to 53C.6 inclusive, Forms 62.1 to 62.25 inclusive and Form 99.1 shall be deleted from Schedule C to the District Court Rules 1997.

(2) Forms 100.1 to 100.6 inclusive shall be deleted from Schedule D to the District Court Rules 1997.

(3) The forms set out in Schedule 5 shall be added to Schedule C of the District Court Rules 1997 immediately following Form 12B.1.

*4. Application and transitional arrangements*

4. (1) The amendments to the District Court Rules 1997 effected by these Rules apply to every civil proceeding commenced in the District Court on or after the date on which these Rules come into effect.

(2) Notwithstanding the amendments to the District Court Rules 1997 effected by these Rules any civil proceeding in being in the District Court before

the date on which these Rules come into effect shall be continued and determined as if these Rules had not taken effect.

**SCHEDULE 1**

## “Interpretation of terms

In these Rules-

“child” means a person under the age of 18 years;

“civil proceedings” means any proceedings which may be brought in the District Court which are not criminal proceedings and includes those suits or actions at law in which jurisdiction is conferred by any enactment on the District Court in civil cases as described in section 77A of the Courts of Justice Act 1924 and in any enactment extending or amending that section either expressly or by implication, and “civil proceeding” must be construed accordingly;

“claim” includes cause of action or matter;

“claimant” means a person seeking a remedy in civil proceedings, and any reference in an enactment to a “plaintiff” must, for the purposes of these Rules be taken to be a reference to a claimant;

“claim notice” means a document issued under these rules initiating civil proceedings in the District Court in which damages or other relief are claimed against a respondent, and where the context so requires, includes a personal injuries summons, and any reference in an enactment to a “civil summons” must, unless the context otherwise requires, for the purposes of these Rules be taken to be a reference to a claim notice;

“Clerk”, save where the context otherwise requires, means:

- (a) a District Court Clerk attached to the District Court in accordance with section 46 of the Court Officers Act 1926 and assigned to one or more Court areas in accordance with section 48 of the Court Officers Act 1926; or
- (b) a person temporarily appointed to perform the duties and fulfil the functions of a District Court Clerk; and
- (c) where a District Court Clerk conducts business in a combined courts office established under section 14 of the Courts and Court Officers Act 2009, any reference in these Rules to the office of that Clerk or to the District Court office to which that business relates is or includes a reference to that combined courts office, and any form in the Schedule of Forms may be modified accordingly;

“Convention” means a European Union instrument or a Convention with a foreign country, to which the State and any foreign country are parties, with respect to legal proceedings in civil matters;

“Convention country” means a foreign country to which a Convention applies;

reference to a “company”, unless the context otherwise requires, includes reference to any body corporate, whether established within or out of the State;

“County Registrar” when used in relation to the execution of judgments, warrants or other execution orders in any county or county borough in which the powers and duties of the Under-Sheriff or Sheriff are not transferred to a County Registrar, means the Under-Sheriff or Sheriff, as the case may be, and includes any other officer charged with the execution of process by or under the authority of the Court;

“Counsel” means:

- (a) a person who has been called to the Bar of Ireland and who complies with the requirements of the General Council of the Bar of Ireland as to professional practice; or
- (b) a visiting lawyer, having the same right of audience as a lawyer established in the State by virtue of Regulation 3 of the European Communities (Freedom To Provide Services)(Lawyers) Regulations 1979 (S.I. No. 58 of 1979), who is acting for a party; or
- (c) a registered lawyer, entitled to pursue the professional activities of a barrister by virtue of Regulation 10 of the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. No. 732 of 2003), who is acting for a party;

“Court” unless the context otherwise requires, means the District Court established under section 5 of the Courts (Establishment and Constitution) Act 1961;

“Court area” means one of the areas created in exercise of the power conferred by section 21 of the Courts of Justice Act 1953 and continuing in being by virtue of section 32 of the Courts (Supplemental Provisions) Act 1961 or, as the case may be, created in exercise of the power conferred by section 26 of the Courts of Justice Act 1953 as amended by section 43 of the Courts (Supplemental Provisions) Act 1961, section 16 of the Courts Act 1971 and section 29 of the Courts Service Act 1998;

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

“criminal proceedings” includes proceedings under Part II of these Rules;

“debt claim” means a claim for debt or liquidated damages in which no other remedy (apart from interest or costs) is sought;

“district”, save where the context otherwise requires, or “Court district” means one of the districts created in exercise of the power conferred by section 22 of the Courts of Justice Act 1953 and continuing in being by virtue of section 32 of the Courts (Supplemental Provisions) Act 1961 or, as the case may be, created in exercise of the power conferred by section 26 of the Courts of Justice Act 1953 as amended by section 43 of the Courts (Supplemental Provisions) Act 1961, section 16 of the Courts Act 1971 and section 29 of the Courts Service Act 1998 and must be construed to include reference to the Dublin Metropolitan District;

“Dublin Metropolitan District” means the district styled and known as the Dublin Metropolitan District established in accordance with section 47 of the Court Officers Act 1926, declared to be the Dublin Metropolitan District in accordance with section 64 of the Courts of Justice Act 1936 and described and defined in the District Court Districts (Dublin) Order 1945 (S R & O. 1945, No. 279) and varied by the District Court Districts (Dublin) (Amendment) Order 1982 (S.I. No. 88 of 1982);

“enactment” means an Act or a statutory instrument or any portion of an Act or statutory instrument;

“Judge” means a Judge of the District Court and includes the President of the District Court;

“judgment” includes any decree or dismissal, and any reference in an enactment to a “decree” or “dismiss” must, for the purposes of these Rules be taken to be a reference to a judgment;

“licensing year” means a period of twelve months ending on the 30th day of September in any year;

“Minister”, save where the context otherwise requires, means the Minister for Justice and Equality;

“oath” includes solemn affirmation and statutory declaration;

“party” includes any person entitled to appear and be heard in relation to any action, application or other proceedings and, where the context so admits or requires, includes the personal representative of a deceased party;

“penalty” includes any fine or other penal sum and, where a fine is ordered to be paid, any compensation, costs or expenses, in addition to such fine;

“personal injury” includes any disease and any impairment of a person’s physical or mental condition;

“prescribed”, in relation to fees, means prescribed by the Minister with the sanction of the Minister for Finance;

“Registered post” means a registered items service (within the meaning of section 16(12) of the Communications Regulation (Postal Services) Act 2011 provided by a person who is for the time being deemed in accordance with section 38 of that Act to be a postal service provider authorised to provide a registered items service and registered as such in the register maintained in accordance with section 40 of that Act, and “prepaid registered post”, “registered letter”, “prepaid registered letter” and all cognate expressions shall be construed accordingly;

“respondent” means a person against whom a remedy is sought by a claimant in civil proceedings, and any reference in an enactment to a “defendant” must, for the purposes of these Rules be taken to be a reference to a respondent;

“return date”, unless otherwise provided in these Rules, means the date first fixed for the hearing by the Court of an application in civil proceedings by notice of motion, by notice of application, by summons or by other document by which the application or matter is listed before the Court, and includes any date to which the hearing is adjourned;

the “Schedule of Costs” means the Schedule of Costs annexed to these Rules or any other similar Schedule for the time being in force;

“small claim”, or “small claim proceeding”, unless the context otherwise requires, includes a small claim proceeding under Order 53A and a European small claim proceeding under Order 53B;

“solicitor” includes:

- (a) a practising solicitor on record for a party (including such a solicitor who is a member of a firm of solicitors or who is employed by a firm or by another solicitor), and including a firm of solicitors; or
- (b) a visiting lawyer, having the same right of audience as a lawyer established in the State by virtue of Regulation 3 of the European Communities (Freedom To Provide Services)(Lawyers) Regulations 1979 (S.I. No. 58 of 1979), who is acting for a party; or
- (c) a registered lawyer, entitled to pursue the professional activities of a solicitor by virtue of Regulation 10 of the European Communities (Lawyers' Establishment) Regulations 2003 (S.I. No. 732 of 2003), who is acting for a party.

Additional expressions are defined for the purposes of particular Orders or rules within those Orders or rules respectively.”



**SCHEDULE 2****“ORDER 39****CIVIL PROCEEDINGS: GENERAL RULES****1—WHERE NO PROCEDURE PROVIDED FOR****1 Where no procedure provided for**

1. (1) If the procedure for the conduct of civil proceedings is not prescribed by these Rules or by an enactment, or for any other reason there is doubt about the manner or form of the procedure, the Court may determine what procedure is to be adopted and may give directions.

(2) Subject to Order 12, rule 9(4), where no form for use in the Court in respect of a step, notification or other action in a civil proceeding is for the time being prescribed, any form for the time being in use in the Circuit Court or the High Court for the corresponding step, notification or other action in civil proceedings may be used in civil proceedings in the Court with the necessary modifications.

**2 — NON-COMPLIANCE WITH THESE RULES****2 Effect of non-compliance**

2. (1) Subject to any provision of an enactment, a failure to comply with these Rules is an irregularity and does not render a civil proceeding or a step taken, or any document or order in the proceeding void.

(2) If there has been a failure to comply with these Rules, the Court may—

- (a) set aside the proceeding, either wholly or in part;
- (b) set aside any step taken in the proceeding, or any document or order therein;
- (c) exercise its powers under these Rules to allow amendments and to make orders dealing with the proceeding generally.

**3 — TIME****3 Proceedings after twelve months**

3. (1) Where no step by a party requiring the filing of a document with the Clerk or notification to the Court under these Rules has been taken in a civil proceeding for twelve months or more since the last such step, a party intending the proceeding to continue must give to every other party not less than one month's notice in writing (Form 39.01, Schedule C) of that party's intention to proceed.

(2) A notice under sub-rule (1) must also be filed with the Clerk.

#### **4 Dormant proceedings**

4. (1) Where no step by a party requiring the filing of a document with the Clerk or notification to the Court under these Rules has been taken in a civil proceeding for twelve months or more since the last such step, the Court may cause the civil proceeding to be listed before the Court to explain the failure to proceed.

(2) The Clerk must notify the parties of any listing in accordance with sub-rule (1). The notification may be in Form 39.02, Schedule C.

(3) A party may file a written explanation of the failure to proceed with the Clerk and if the Court is satisfied that there were sufficient reasons for the failure to proceed, may direct that the civil proceeding be removed from the list to explain the failure to proceed and direct that the Clerk notify the parties accordingly.

(4) On the listing of a civil proceeding in accordance with sub-rule (1), the Court may make such orders and give such directions as are in the opinion of the Court likely to ensure the civil proceedings are prepared for trial in a manner which is just, expeditious and likely to minimise the costs of those proceedings.

#### **5 Enlargement or abridgement of time**

5. (1) Subject to sub-rules (3) and (4), the Court may, on any terms it considers reasonable, enlarge or abridge any of the times fixed by these Rules, or by a prior order of the Court, for taking any step or doing any act in any civil proceedings.

(2) Subject to sub-rules (3) and (4), the Court may also, on any terms as to costs or otherwise as it considers just, declare any step taken or act done in any civil proceedings to be sufficient, even though not taken or done within the time or in the manner prescribed by these Rules.

(3) Sub-rules (1) and (2) do not apply to any period of time fixed by:

(a) an Act of the Oireachtas, or

(b) a statute which was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and which continued in force by virtue of Article 50 of the Constitution.

(4) Without limiting the generality of sub-rule (3), any application to state a case under section 2 of the Summary Jurisdiction Act 1857 must be made within the time prescribed by that Act.

(5) Unless otherwise directed or permitted by the Court, an application to enlarge or abridge time must be made by motion on notice to the other party or parties who would be affected by the enlargement or abridgement of time.

**ORDER 40****BEGINNING CIVIL PROCEEDINGS IN THE COURT****1—GENERAL****1 Definitions**

1. In this Order-

"the 1924 Act" means The Courts of Justice Act 1924 (No. 10 of 1924);

"the 1991 Act" means the Courts Act 1991 (No. 20 of 1991).

**2 Claim not to be divided**

2. (1) A claimant must not divide a claim for the purpose of making the claim the subject of two or more claim notices.

(2) A claimant who has a claim for more than the amount for which a claim may be made in the Court may abandon the excess by so stating in the claim notice.

**3 Names, addresses and representation of parties**

3. (1) A claim notice must—

(a) state the full name and address of the claimant and an address for service of documents on the claimant; and

(b) if the claimant sues in person, state an address for service of documents on the claimant; and

(c) if the claimant sues or the respondent is sued in a representative capacity, state the capacity in which the claimant sues or the respondent is sued in a representative capacity; and

(d) state the name and address of the respondent; and

(e) if the claimant sues by a solicitor, state the name or firm and business address of the solicitor and also, if the solicitor is the agent of another, the name or firm and business address of the principal.

(2) Where a solicitor's name is given on a claim notice as solicitor for a claimant—

(a) the solicitor must, on request in writing by a respondent, confirm in writing whether the claim notice was filed by or with the authority of the solicitor on behalf of that claimant; and

- (b) if the solicitor confirms in writing that the claim notice was not filed by or with the authority of that solicitor, the Court must stay the civil proceedings and no further step may be taken in the civil proceedings without the permission of the Court.

#### **4 Commencement of civil proceedings**

4. (1) Subject to the provisions of these Rules which apply to particular categories of claims or cases, a civil proceeding must be commenced by the filing for issue and service of a claim notice.

(2) Save where otherwise provided by these Rules or by an Act and subject to Order 41B and the Conventions to which it relates, a claim notice must be filed with and issued by the Clerk for the Court area:

- (a) in which the respondent or one of the respondents ordinarily resides or carries on any profession, business or occupation,

or at the election of the claimant,

- (b) in proceedings founded on contract, (except proceedings arising from an agreement under the Consumer Credit Act 1995 or the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281 of 2010)) in which the contract is alleged to have been made, or

- (c) in proceedings founded on tort, in which the tort is alleged to have been committed, or

- (d) in ejectment proceedings, in which the lands the subject of the proceedings are situated.

(3) Filing must be effected by filing with the Clerk assigned to the Court area referred to in sub-rule (2), in person or by post.

(4) Unless otherwise provided by law, civil proceedings in the Court must be heard and determined at a sitting of the Court for the transaction of civil business for the Court area in which the civil proceeding was brought.

(5) A claim notice which has been issued by a Clerk is deemed to have been issued on the date on which it was filed with the Clerk for issue.

#### **5 Form of claim notice**

5. (1) Unless sub-rule (2) applies, a claim notice must be in Form 40.01, Schedule C, or in Form 40.02, Schedule C in a debt claim.

(2) If a claim notice is to be served out of the State, the claim notice must be in the form required by Order 41A (service out of the State with the permission of the Court) or, as the case may be, Order 41B (service out of the State without the permission of the Court).

(3) A claim notice must contain a statement of claim.

(4) A statement of claim must—

(a) contain, in a summary form, a statement of all material facts on which the claimant relies, but not evidence by which those facts are to be proved;

(b) contain the necessary particulars of every fact;

(c) if the claim arises by or under any enactment, identify the specific provision of the enactment that is relied on;

(d) state specifically the amount or other relief or remedy sought;

(e) state the place where and the date when the claim arose.

(5) A statement of claim in a debt claim must state that the claim is for debt or liquidated damages, must specify the amount claimed by way of debt or liquidated damages and must include particulars of the claimant's demand for payment.

(6) A statement of claim must be divided into paragraphs numbered consecutively, and each fact or matter stated, so far as practicable, must be contained in a separate paragraph.

(7) Where the claim is founded on any written document, the statement of claim must state the date of the document and the parties to the document and:

(a) if the claim is for the payment of money, the amount claimed, or

(b) if the claim is for breach of contract, the alleged breach or breaches of the contract.

(8) A statement of claim must contain a list of all correspondence and other documents on which the claimant will rely at the trial including the date if any and a brief description of each document.

(9) Any claim notice in which damages are claimed is assumed to include a claim for interest from the date of judgment, where permitted by law, and for the costs of the civil proceedings, whether or not expressly claimed.

(10) Where a claimant alleges that he or she was unable, at the time at which a claim notice was issued, to include in the claim notice any of the information required by this rule to be specified in the claim notice, he or she must include in the claim notice a statement of the reasons why it is claimed that any such information could not be provided at the time of issue of the claim notice. The claimant must, when the claim notice is served or as soon as may be thereafter (whether by amendment or otherwise) provide

such of the information required by this rule as was not included in the claim notice.

## **6 Costs to be specified**

6. (1) In a debt claim, the claim notice must be indorsed with a statement as follows—

"If you pay the amount of €..... and costs of €..... to the claimant or the claimant's solicitor within ten days and without filing and serving an appearance and defence you may avoid further costs."

(2) The amount of costs in the indorsement must be the appropriate amount set out in the Schedule of Costs.

(3) If a claim notice is indorsed in accordance with sub-rule (1), and the respondent pays the amounts claimed within the time limited for filing and serving an appearance and defence, then the civil proceeding is concluded.

(4) The claimant must notify the Clerk in writing when civil proceedings are concluded in accordance with sub-rule (3).

## **7 Consent proceedings**

7. (1) Where civil proceedings of the kind mentioned in paragraph A of section 77 of the 1924 Act are brought before the District Court and the amount claimed in such proceedings is in excess of €15,000 and, pursuant to the proviso (inserted by section 4(c) of the 1991 Act) to paragraph A of section 77, the necessary parties to the proceedings sign a form of consent either before or at any time during the hearing, the consent must be in the Form 40.03, Schedule C.

(2) When completed, the consent must be attached to and filed together with the original claim notice or other originating document or, as appropriate, must be produced to the Court during the hearing.

(3) Every consent so filed or produced must be retained by the Clerk with the original claim notice or other originating document and must be noted on the court record and on any order issued in relation to the civil proceedings.

(4) Costs, where allowed in any such civil proceedings, must be in accordance with the relevant provisions of the Schedule of Costs.

## **8 Proceedings transferred from the High Court or Circuit Court**

8. (1) Where civil proceedings are remitted or transferred to the District Court by the High Court under section 25 of the 1924 Act or by the Circuit Court under section 15 of the 1991 Act, the claimant must, within 14 days from the date of perfection of the order for remittal or transfer, file with

the Clerk a certified copy of the order and the summons, civil bill or other originating document (or a copy thereof) and copies of all documents already delivered and orders made in the proceedings.

(2) Where the claimant omits or refuses to file the documents within the 14 day period mentioned in sub-rule (1), the respondent must do so as soon as may be after the expiration of the 14 day period.

(3) The party filing the documents must give notice to every other party to the proceedings of such filing.

(4) After filing of the order and documents, the civil proceedings must continue as if they had been commenced in the Court and any respondent who has not served a defence and filed an appearance must do so within the 21 days of service of the notice referred to in sub-rule (3).

(5) The civil proceedings must be heard and determined by the Court as if they had originally been commenced in the Court.

(6) A note of the remittal or transfer must be entered on the court record and on any order issued in relation to the proceedings.

(7) Costs, where allowed in any such civil proceedings, must be in accordance with the provisions of the Schedule of Costs.

### **9 Proceedings under section 74 of the Consumer Protection Act 2007**

9. (1) Any claim by a consumer for damages under section 74 of the Consumer Protection Act 2007 (No. 19 of 2007) must be commenced by the issue and service in accordance with this Order of a claim notice, entitled in the matter of section 74 of the Consumer Protection Act 2007 and otherwise in the Form 40.01, Schedule C with such modifications as are appropriate.

(2) Any consent under section 74(4) of the Consumer Protection Act 2007 must be in the Form 40.03, Schedule C but, instead of reciting that it is given under section 77A of The Courts of Justice Act 1924, must recite that it is given under section 74(4) of the Consumer Protection Act 2007, and must be lodged with the Clerk either before or at any time during the hearing.

### **10 Duration**

10. (1) A claim notice is valid for service for one year after the day it is filed.

(2) If a claim notice has not been served on a respondent or if a witness summons has not been served on a witness, the Court may from time to time extend the validity of the claim notice or witness summons for such period from the day of the order as the Court directs, not being more than six months from that day.



(3) An order may be made under sub-rule (2) before or after expiry of the claim notice or witness summons.

(4) The claimant may apply under sub-rule (2) without notice to the respondent, but if the Court considers that the respondent ought to be heard, the Court may adjourn the further hearing and direct the claimant to give written notice to the respondent of the place and time to which the application was adjourned.

**ORDER 40A****PERSONAL INJURIES PROCEEDINGS****1 — DEFINITIONS****1 Definitions**

1. In this Order, unless the context or subject matter otherwise requires—

the “2003 Act” means the Personal Injuries Assessment Board Act 2003 (No. 46 of 2003);

the “2004 Act” means the Civil Liability and Courts Act 2004 (No. 31 of 2004);

“assessors” has the meaning given by section 20(2) of the 2003 Act;

the “Board” has the meanings given to it by section 4 of the 2003 Act;

“claimant” includes a deceased person, where personal injuries proceedings are instituted for the benefit of dependants of a deceased person;

“order” includes any judgment, decree or dismiss;

“personal injuries proceedings” means an action for the recovery of damages,

in respect of a wrong, for—

(a) personal injuries,

(b) both such injuries and damage to property (but only if both have been caused by the same wrong), or

(c) under section 48 of the Civil Liability Act 1961 (No. 41 of 1961),

but does not include an action where the damages claimed include damages for false imprisonment or trespass to the person,

and “proceedings” must be interpreted accordingly;

“personal injuries summons” means a summons by which personal injuries proceedings are begun in the Court in accordance with rule 3;

“pleading” has the same meaning as in section 2 of the 2004 Act;

“Personal Public Service Number” or “PPSN” means the Personal Public Service Number allocated and issued to a person under section 241B of the Social Welfare Consolidation Act 2005 (No. 26 of 2005).

## **2 — PERSONAL INJURIES PROCEEDINGS UNDER THE 2004 ACT**

### **2 Priority of provisions of this Order in personal injuries proceedings**

2. (1) The provisions of this Order apply to personal injuries proceedings.

(2) Save where otherwise expressly provided by this Order, if any conflict arises between the provision of any rule of this Order and any other provision of these Rules, the provision of the rule of this Order prevails in respect of personal injuries proceedings.

### **3 Venue**

3. (1) Save where otherwise provided by these Rules or by an Act and subject to Order 41B and the Conventions to which it relates, a personal injuries summons must be filed with and issued by the Clerk assigned to the Court area in which the respondent or one of the respondents ordinarily resides or carries on any profession, business or occupation.

(2) Unless otherwise provided by law, personal injuries proceedings in the Court must be heard and determined at a sitting of the Court for the transaction of civil business for the Court area in which the personal injuries proceedings were brought.

(3) A personal injuries summons which has been issued by a Clerk is deemed to have been issued on the date on which it was filed with the Clerk for issue.

### **4 Form of personal injuries summons**

4. (1). Personal injuries proceedings in the Court must be instituted by the issue for service on each respondent of a personal injuries summons in the Form No. 40A.01, Schedule C.

(2) Save where otherwise expressly provided by this Order, the provisions of these Rules which apply to a claim notice apply, with appropriate modifications, to a personal injuries summons.

### **5 Content of personal injuries summons**

5. (1) A personal injuries summons must specify:

- (i) the claimant's name, the address at which he or she ordinarily resides and his or her occupation;
- (ii) the claimant's Personal Public Service Number (and where a claimant has not been issued with a PPSN, this must be stated in the personal injuries summons);
- (iii) the respondent's name, the address at which the respondent ordinarily resides (if known to the claimant) and the respondent's occupation (if known to the claimant).

(2) In any proceedings the bringing of which requires to be authorised in accordance with sections 14, 17, 32, 36 or 49, or rules under section 46(3) of the 2003 Act, the personal injuries summons must contain a statement:

- (a) confirming that the proceedings have been authorised by the Personal Injuries Assessment Board,
- (b) specifying the section of the 2003 Act or the rule made under section 46(3) of the 2003 Act in accordance with which such authorisation has been issued, and
- (c) citing the date of issue of the authorisation and any reference or record number relating to such authorisation.

## **6 Particulars of claim in personal injuries summons**

6. (1) A personal injuries summons must:

- (a) set out full and detailed particulars of-
  - (i) the nature of the claim and of each allegation, assertion or plea comprising that claim;
  - (ii) the injuries to the claimant alleged to have been occasioned by the wrong of the respondent;
  - (iii) the acts of the respondent constituting the wrong and the circumstances relating to the commission of the wrong;
  - (iv) each instance of negligence by the respondent, and
- (b) contain a schedule of full particulars of all items of special damage in respect of which the claimant is making a claim.

(2) Where a claimant alleges that he or she was unable, at the time at which a personal injuries summons was issued, to include in the personal injuries summons any of the information required by this rule to be specified in the personal injuries summons, he or she must include in the personal injuries summons a statement of the reasons why it is claimed that any such information could not be provided at the time of issue of the personal injuries summons. The claimant must, when the personal injuries summons is served or as soon as may be thereafter (whether by amendment or otherwise) provide and verify such of the information required by this rule as was not included in the personal injuries summons.

## **7 Form of personal injuries defence**

7. (1) Each respondent who intends to defend the personal injuries proceedings must deliver to the claimant (or his solicitor) an appearance and defence in the Form 40A.02, Schedule C and file a copy of the appearance

with the Clerk within 28 days after the service on him or her of the personal injuries summons.

(2) Where any respondent makes a counterclaim, the counterclaim must be in the Form 40A.03, Schedule C and must be appended to the defence.

### **8 Affidavit of verification under section 14 of the 2004 Act**

8. (1) An affidavit of verification of a pleading or of further information requiring to be verified on oath under section 14(1) or section 14(2) of the 2004 Act must be in the Form 40A.04, Schedule C.

(2) The affidavit may be endorsed on the pleading or other document concerned, or may exhibit the relevant pleading or other document.

(3) A copy of the affidavit of verification must be delivered to the party to whom the pleading or other document is to be delivered.

(4) Where the affidavit is endorsed on the pleading or other document, it must be delivered within the time prescribed by these Rules for delivering the pleading or other document. Otherwise, the affidavit must be delivered within the time prescribed by section 14 of the 2004 Act for filing the affidavit in Court.

(5) Where the affidavit of verification is delivered after delivery of the pleading or other document, the time prescribed by these Rules for delivery of any pleading or other document in reply runs from the date of delivery of the affidavit of verification.

(6) An affidavit of verification must be filed in Court as required by section 14(4) of the 2004 Act by filing the original affidavit duly stamped with the Clerk.

### **9 Applications by notice of motion in personal injuries proceedings**

9. (1) The following applications in personal injuries proceedings must be made by application to the Court by motion on notice to the opposing party or parties. The notice of motion must be in the Form 40A.05, Schedule C, and must be supported by an affidavit sworn by or on behalf of the moving party:

- (i) an application under section 9(2) of the 2004 Act (in the absence of agreement between or among the parties) for the extension of the period provided for in this Order or otherwise in these Rules, within which any document may be served or thing may be done;
- (ii) an application by a respondent under section 10(3) of the 2004 Act for a stay or dismissal of proceedings by reason of a claimant's failure to provide the information necessary to comply with section 10 of the 2004 Act;

- (iii) an application by a respondent under section 11(3) of the 2004 Act for a stay or dismissal of proceedings by reason of a claimant's failure to provide further information requested under section 11(1) or section 11(2) of the 2004 Act;
- (iv) an application by a claimant under section 12(3) of the 2004 Act for a stay of proceedings or for judgment by reason of a respondent's failure to provide the information necessary to comply with section 12 of the 2004 Act;
- (v) an application by a party for a direction of the Court under section 15 of the 2004 Act that a mediation hearing be held;
- (vi) an application to the Court to order delivery by the opposing party of further and better particulars of any pleading delivered by that opposing party;
- (vii) an application by a party wishing to have evidence given by affidavit, under section 19 of the 2004 Act;
- (viii) an application by a party wishing to have an approved person appointed to carry out any investigation and to give any evidence in relation to any matter, under section 20 of the 2004 Act.

(2) No application described in sub-rule (1) may be issued unless:

- (a) the moving party has first written to the relevant opposing party requesting that the relevant opposing party agree to any extension proposed or (as the case may be) provide the information identified in, or agree to, the moving party's request;
- (b) a period of 14 days for compliance with the moving party's request has been allowed; and
- (c) the party requested has failed, refused or neglected to comply with such request.

(3) No application for judgment in default of defence may be granted in personal injuries proceedings unless the moving party has satisfied the Court that he has verified his personal injuries summons in those proceedings on oath in accordance with this Order.

## **10 Adjournment to facilitate mediation**

10. (1) Where in accordance with section 15 of the 2004 Act the Court directs that a mediation conference be held, it may adjourn the personal injuries proceedings for such time as it considers appropriate to enable the mediation hearing to be held.

(2) Where the Court directs that a mediation conference be held, it may extend the time for compliance by the parties or any of them with any provision of these Rules or any order of the Court in the personal injuries proceedings.

(3) The report under section 16 of the 2004 Act of the person appointed under section 15(4) of the 2004 Act to be the chairperson of a mediation hearing must be provided in an affidavit which must verify:

- (a) his or her appointment as mediator;
- (b) whether the mediation hearing was or was not held;
- (c) if not held, the reasons why the mediation hearing did not take place;
- (d) if held—
  - (i) the time and place at which the mediation hearing was held;
  - (ii) the parties in attendance;
  - (iii) whether or not a settlement was reached in the personal injuries proceedings, and
  - (iv) the terms of any settlement signed by the parties.

## **11 Offer of settlement**

11. (1) Copies of the claimant's notice of an offer of terms of settlement required by section 17(1) of the 2004 Act and of the respondent's notice required by section 17(2) of the 2004 Act must be filed in Court.

(2) Copies of the notices referred to in sub-rule (1) must be filed by being delivered, together with an affidavit or statutory declaration of service of the notice on the opposing party, to the Clerk as soon as may be after the expiry of the prescribed period referred to in section 17(3) of the 2004 Act.

(3) The notices referred to in sub-rule (1) must be in the Form 40A.06, Schedule C.

(4) The notices referred to in sub-rule (1) must not be given or produced to the Judge before the determination of the personal injuries proceedings.

## **12 Pre-trial hearing**

12. (1) A pre-trial hearing as provided for in section 18 of the 2004 Act must be held in personal injuries proceedings where the Court, on the application by motion on notice to the opposing party or parties by the party wishing to apply for a pre-trial hearing, considers that a pre-trial hearing is appropriate.

(2) A Judge presiding over a pre-trial hearing may at such hearing give such directions and make such orders as he or she considers necessary for the purposes of determining what matters relating to the proceedings are in dispute.

### 3 — APPLICATIONS UNDER THE 2003 ACT

#### 13 Application for approval of an assessment

13. (1) An application for the approval by the Court of an assessment under section 35(2) of the 2003 Act must be made by notice of motion in the Form 40A.07, Schedule C.

(2) The notice of motion must be filed in and issued by the Clerk assigned to the Court area in which the respondent or one of the respondents ordinarily resides or carries on any profession, business or occupation.

(3) The notice of motion must be supported by an affidavit entitled

“IN THE MATTER OF THE PERSONAL INJURIES  
ASSESSMENT BOARD ACT 2003

and

IN THE MATTER OF AN APPLICATION RELATING TO  
A.B., A [CHILD OR PERSON OF UNSOUND MIND], OF  
[ADDRESS] BY C.D., ACTING AS [STATE CAPACITY]  
ON BEHALF OF THE SAID A.B.”

(4) The notice of motion must be addressed to the respondent by name and must be served by the applicant on the respondent not later than seven days before the return date.

(5) The notice of motion must be served

(a) by delivering it to the respondent;

(b) by leaving it at the address at which the respondent ordinarily resides (or in the case of a company, its registered office) or, in a case in which an address for service has been furnished by the respondent, at that address, or

(c) by sending it by post in a prepaid registered letter to the address at which the respondent ordinarily resides (or in the case of a company, its registered office) or, in a case in which an address for service has been furnished, to that address.

(6) When considering an application concerning such an assessment the Court may appoint a person of full age to act as guardian *ad litem* of the child or, where appropriate, of the person of unsound mind.



(7) Where applicable, the provisions of Order 45, rule 7 (concerning lodgments) apply *mutatis mutandis* to assessments made in favour of children or persons of unsound mind approved in accordance with this rule in respect of the amount recoverable in accordance with section 38 of the 2003 Act.

(8) The Clerk must send by ordinary pre-paid post or by e-mail to the Personal Injuries Assessment Board a certified copy of any order made pursuant to this rule.

(9) If an order to pay issues in accordance with section 38 of the 2003 Act, a copy of the order to pay must be sent forthwith by the Personal Injuries Assessment Board to the Clerk by ordinary pre-paid post or in electronic form.

(10) If an order to pay issues in accordance with section 38 of the 2003 Act, the Court may direct investment in accordance with Order 43, rule 12.

#### **14 Application to Court by assessors**

14. (1) An application by an assessor for an order under section 27(2) of the 2003 Act must be made at a sitting of the District Court in the Court area within which the person against whom the order concerned is sought resides or carries on business.

(2) Such an application must be by notice of application in the Form 40A.08, Schedule C, and must be addressed to the respondent by name.

(3) Notice of the application must be served by the applicant not later than seven days before the return date. The notice must be served:

- (a) by delivering it to the respondent;
- (b) by leaving it at the address at which the respondent ordinarily resides or, in a case in which an address for service has been furnished, at that address; or
- (c) by sending it by post in a prepaid registered letter to the address at which the respondent ordinarily resides or, in a case in which an address for service has been furnished, to that address.

**ORDER 40B****LANDLORD AND TENANT PROCEEDINGS (EJECTMENT)****1 Definitions**

1. In this Order, unless the context or subject matter otherwise requires—the “1860 Act” means the Landlord and Tenant Law Amendment Act Ireland 1860;

any reference in an enactment to “ejectment” must, for the purposes of this Order, be taken to include a reference to recovery of the possession of premises by a landlord or other person claiming to be entitled to possession of premises;

“landlord and tenant claim notice” means a claim notice beginning landlord and tenant proceedings in the District Court in accordance with these Rules, and any reference in an enactment to an ejectment civil summons must, for the purposes of this Order, be taken to include a reference to a landlord and tenant claim notice;

“landlord and tenant proceedings” means any civil proceedings which may be brought in the District Court between a landlord and a tenant, and any reference in an enactment to proceedings for ejectment or for the recovery of possession of premises in the District Court must, for the purposes of this Order, be taken to include a reference to landlord and tenant proceedings;

any reference to an “order” must, for the purposes of this Order, unless the context otherwise requires, be taken to include a reference to a judgment, decree or dismiss.

**2 Requirements of this Order additional to Order 40**

2. (1) The provisions of this Order apply to landlord and tenant proceedings in the Court.

(2) The requirements of this Order are additional to the requirements of Order 40 as regards claim notices.

**3 Additional particulars required in landlord and tenant claim notice**

3. (1) A landlord and tenant claim notice must:

(a) specify the names of the landlord and the tenant;

(b) specify the nature of the tenancy and state whether the tenancy is required to be registered in the private residential tenancies register maintained under section 127 of the Residential Tenancies Act 2004, and where the tenancy is required to be so registered, either (i) give particulars of registration or (ii) confirm that it is not so registered;

- (c) contain a description of the premises to which the claim relates, including the full address and any other details necessary to establish the Court area in which the premises are situated;
- (d) specify the rent under the tenancy;
- (e) where it is part of the claim that the tenancy has determined, the facts of the determination of the tenancy and the means by which it was determined;
- (f) where non-payment of rent is part of the claim, specify the amount of rent due after all fair and just allowances, and the date up to which that rent was due;
- (g) explain why the claimant is not precluded from bringing civil proceedings in the Court in respect of the tenancy by section 182 of the Residential Tenancies Act 2004;
- (h) set out the appropriate costs in the Schedule of Costs payable if the claimant's claim is settled before appearance and defence.

(2) A claim notice claiming for the recovery of possession of premises from a tenant at will, a permissive occupant, or a caretaker or servant must also:

- (a) state that a demand for possession was made by or on behalf of the owner of the premises;
- (b) specify the date of the demand for possession;
- (c) confirm the respondent's refusal or omission to quit and deliver up possession.

(3) The Court may stay proceedings in respect of any tenancy which is required to be registered in the private residential tenancies register maintained under section 127 of the Residential Tenancies Act 2004 but is not so registered.

#### **4 Form of claim notice**

4. A claim notice in a claim for:

- (a) recovery of possession of premises for overholding,
- (b) recovery of possession of premises from a tenant at will, a permissive occupant, a caretaker or a servant or,
- (c) recovery of possession of premises for non-payment of rent

must be in accordance with Form 40B.01 Schedule C.

## **5 Service of claim notice**

5. (1) A landlord and tenant claim notice must be served on every person in actual possession of the premises specified in the claim notice, whether as tenant, sub-tenant, or otherwise.

(2) The claim notice must be served in a manner prescribed in Order 41.

(3) Where the immediate tenant of the claimant in landlord and tenant proceedings is not in actual possession of the premises, the claim notice must be served on that immediate tenant in addition to any person on whom service is required under sub-rule (1).

(4) Where no person is in actual possession of the premises, a copy of the claim notice must be affixed to the door or some other conspicuous part of the premises claimed. In such a case, the affixing of a copy of the claim notice must be taken to be sufficient service of the claim notice.

(5) Where the person who was last in actual possession of the premises was a sub-tenant, and no person is in actual possession, the claim notice must also be served on the immediate tenant of the claimant, as provided by sub-rule (3).

## **6 Affidavits in claims for recovery of possession of premises for non-payment of rent**

6. (1) In claims for recovery of possession of premises for non-payment of rent, the claimant may prove the nature and conditions of the tenancy and the amount of rent due by an affidavit sworn by the claimant or his or her authorised agent.

(2) An affidavit mentioned in sub-rule (1) must be filed with the Clerk.

(3) On reading an affidavit filed under sub-rule (2), where no respondent has served and filed an appearance and defence, the Court may make an order without requiring the attendance of the claimant in Court.

## **7 Stay of execution**

7. On making an order on foot of any landlord and tenant claim notice claiming recovery of possession of premises, the Court may grant a stay of execution on such conditions as it thinks reasonable in the circumstances.

## **8 Payment or tender in claims for recovery of possession of premises for non-payment of rent**

8. (1) At any time before an order on a claim for recovery of possession of premises for non-payment of rent has been delivered to the County Registrar or Sheriff for execution, the respondent or any person having a specific interest in the contract of tenancy may pay to the claimant:

(a) all rent and arrears of rent due at the time of the service of the claim notice, and

(b) a sum sufficient to cover the claimant's costs,

or may tender those amounts to the claimant.

(2) If tender of the amounts mentioned in sub-rule (1) is refused, the respondent or other person having a specific interest in the contract of tenancy may deposit those amounts with the Clerk.

(3) The Clerk must give a receipt for any amounts deposited under sub-rule (2) and give notice to the claimant of receipt of the amounts deposited.

(4) In such a case, the Court may order that all further proceedings be stayed on payment to the claimant of the money deposited, and such further amount, if any, for costs up to the date of tender as the Court thinks reasonable.

(5) A decision of the Court under sub-rule (4) is subject to appeal as if it were a final order on foot of a claim notice in ejectment for non-payment of rent.

### **9 Writ of restitution**

9. (1) When an order for possession for non-payment of rent has been executed, the Court may award a writ of restitution on the application of the respondent or any other person having a specific interest in the contract of tenancy.

(2) A writ of restitution may be awarded in accordance with sub-rule (1) on the payment to the claimant or the deposit with the Clerk of the amount due for rent, arrears of rent and costs within six months after the execution of the judgment, as provided by sections 70 and 71 of the 1860 Act.

### **10 Warrant for possession**

10. (1) A warrant for possession under section 86 of the 1860 Act may be issued at any time not exceeding six months after the date of the order.

(2) After the expiration of six months from the date of the order a warrant may only be issued on application to the Court by the claimant by motion on notice to the respondent.

**ORDER 40C****PROCEDURE IN STATUTORY APPLICATIONS BY NOTICE OF APPLICATION****1 Definitions**

1. (1) In this Order—

“relevant authority” means any agency, board, authority, commission, council, ombudsman, tribunal, or other body (not including a company formed under the Companies Acts) established by or under an enactment, which is authorised by an enactment:

- (a) to exercise powers under an enactment to determine or decide, any complaint or issue, or
- (b) to issue any notice or order addressed to a person requiring the taking or ceasing of any action,

and includes, where the context so requires, any committee, officer or member of the staff of such a body who has been authorised by an enactment or by such a body to exercise those powers;

“relevant application” means any of the following applications—

- (a) an application to the Court under an enactment by a person authorised by law to apply to the Court for an order directing, requiring or compelling a person to take any step or do any thing (including, without limitation, to provide information or to produce a document or thing) or prohibiting or restraining a person from, or directing a person to cease or refrain from, taking a step or doing a thing (in the remainder of this Order, referred to as a “direction application”),
- (b) an application to the Court by a person authorised by law to apply to the Court, for an order of the Court directing, requiring or compelling a person to perform, comply with, carry out or implement, or for the enforcement of, a decision, determination, notice or order of a relevant authority (in the remainder of this Order, referred to as an “enforcement application”) but does not include:
  - (i) any application for the issue by the Court or the Clerk of any order for execution of any such decision, determination, recommendation, or settlement which an enactment provides may be enforced or executed as, or in the like manner to, a judgment of the Court; or
  - (ii) any application for the issue of a summons; or

(iii) any claim for damages (which must be commenced by claim notice);

(c) except where a particular procedure for such an application is specified in another Order of these Rules, an application to the Court under an enactment by a person authorised by that enactment to apply to the Court, for any licence, certificate, authority or permission or, as the case may be, for the restoration of, or other relief from disqualification from holding or restriction on holding any licence, certificate, authority or permission (in the remainder of this Order, referred to as a “licence application”),

(d) except where a particular procedure for such an application is specified in another Order of these Rules, any other application to the Court for relief under an enactment (other than relief by way of damages, liquidated or unliquidated) which is, required, authorised or permitted by these Rules to be brought or made in accordance with this Order.

(2) Where an enactment provides for or permits a relevant application to be made to the Court or to a Judge and no other provision is made for the applicable procedure either by the enactment concerned or by these Rules, the procedure set out in the following rules applies.

(3) Sub-rule (2) is subject to any requirement of the relevant enactment.

## **2 Venue for relevant application**

2. (1) A relevant application must be brought:

(a) in the case of a direction application or an enforcement application, in the Court area where the person or one of the persons against whom an order or other relief is sought resides or carries on any trade, profession or business;

(b) in the case of a licence application:

(i) in the Court area where the applicant intends, in reliance on the licence, certificate, authority or permission sought (or, as the case may be, sought to be restored) to carry on any trade, profession or business; or

(ii) where the licence, certificate, authority or permission is not sought for the purpose of a trade, profession or business, in the Court area where the activity permitted by the licence, certificate, authority or permission is intended to be conducted; or

(iii) where the application is for the restoration of, or other relief from disqualification from holding, any licence, certificate,

authority or permission, in the Court area where the disqualification or restriction concerned was imposed; or otherwise

(iv) in the Court area where the applicant resides.

(2) Sub-rule (1) is subject to any provision or requirement to a different effect in the relevant enactment.

### **3 Commencement of relevant application**

3. (1) The relevant application must be made by notice of application (in the remainder of this Order, referred to as “the notice of application”).

(2) The notice of application must be in Form No. 40C.01, Schedule C, modified as appropriate to the case, and must include particulars of the relief sought appropriate to the case.

(3) The notice of application must be entitled in the matter of the provision of the enactment under which the application is made.

(4) Where any order, direction or other relief is sought against any person, the notice of application must also be entitled as between the applicant as applicant and such person as respondent, and must contain the names and addresses of the applicant and of each respondent.

(5) Where the application is authorised by an enactment to be made *ex parte*, or where no order, direction or other relief is sought as against any person or persons, the notice of application must be entitled in the matter of the provision of the enactment pursuant to which the application is made and on the application of the applicant, and must contain the name and address of the applicant.

(6) The notice of application must specify the particular relief sought against each respondent and the particular provision of the relevant enactment authorising the granting of each such relief.

### **4 Documents to be attached to the notice of application**

4. Where the relevant application is an enforcement application, a true copy of the decision, determination, notice or order concerned, if in writing, must be attached to the original notice of application and to any copy of the notice of application served on any respondent.

### **5 Evidence required at hearing in every case**

5. (1) The applicant must adduce at the hearing of every relevant application:

(a) evidence of the standing and authority of the applicant to make the application under the relevant provision of the enactment;



- (b) if the applicant is acting in a representative capacity, or relief is sought against any respondent in a representative capacity, evidence of the capacity of the applicant or, as the case may be, the respondent;
- (c) evidence of the facts or circumstances which it is alleged authorise or entitle the applicant to make, or justify the applicant in making, the application and which support the granting of the relief sought; and
- (d) all correspondence and documents passing between the applicant and each respondent (if any), or otherwise issuing from any of them, relevant to the matter or matters in respect of which relief is sought, but not including any correspondence or document which, by law, a person is obliged or entitled to refuse to produce.

(2) Sub-rule (1) does not operate to limit the evidence which the applicant is required to adduce at the hearing of the relevant application.

## **6 Period of notice**

6. (1) Not less than 21 days' notice of an application by notice of application must be given to the Court.

(2) Each respondent must be served, in accordance with Order 41, with a copy of the notice of application (and copies of any documents required to be attached) not later than seven days before the return date.

(3) A statutory declaration as to the service of the notice of application on each respondent must be lodged with the Clerk not later than seven days before the return date.

(4) Where the relevant enactment requires prior publication of notice of the intended application, a print of the newspaper or other publication in which notice was published must also be lodged with the Clerk within the time specified in sub-rule (3).

(5) Sub-rules (1) and (2) are subject to any provision or requirement to a different effect in the relevant enactment.

## **7 Orders which may be made by Court on return date**

7. (1) On the return date, the Court may:

- (a) hear the application; or
- (b) give directions and make orders for the conduct of the proceedings as appear convenient for determining the application in a manner which is just, expeditious and likely to minimise the costs of those proceedings.

(2) Directions and orders under sub-rule (1)(b) may, where appropriate, include:

- (a) directions that notice of the application be served on any other person, including mode of service and the time allowed for such service;
- (b) directions that the parties furnish written submissions to the Court and deliver those written submissions to one another;
- (c) an order directing the delivery and filing of any affidavit.

### **8 Application to vary or discharge an order**

8. (1) Where the relevant enactment permits any subsequent application to vary or discharge an order made by the Court on the relevant application, the application to vary or discharge the order must be made by notice of motion to vary or discharge (as the case may be).

(2) A notice of motion to vary or discharge must be in Form No. 44.02, Schedule C, modified as appropriate to the case. The notice must include particulars of the relief sought appropriate to the case.

(3) Not less than 21 days' notice of an application to vary or discharge must be given to the Court.

(4) The applicant for the original order and every respondent served with that application must be served, in accordance with Order 41, with a copy of the notice of motion to vary or discharge not later than seven days before the return date.

(5) A statutory declaration as to the service of the notice of motion on each respondent must be lodged with the Clerk not later than seven days before the return date.

(6) Sub-rules (3), (4) and (5) are subject to any provision or requirement to a different effect in the relevant enactment.

**ORDER 40D****PROCEDURE IN STATUTORY APPEALS BY NOTICE OF  
APPEAL TO THE COURT****1 — DEFINITIONS****1 Definitions**

1. (1) In this Order—

“appellant” means the person making an appeal to the Court;

“respondent” means the person who gave the notice, decision or direction from which the appeal is brought.

(2) Where an enactment provides for or permits an appeal to be made to the Court or to a Judge from any notice given or served or from any decision or direction given in any matter and no other provision is made for the applicable procedure either by the enactment concerned or by these Rules, the procedure for the appeal (in the remainder of this Order, referred to as the “relevant appeal”) set out in the following rules applies.

(3) Sub-rule (2) is subject to any requirement of the relevant enactment.

**2 — GENERAL****2 Venue for appeal**

2. (1) A relevant appeal must be brought:

(a) in the Court area where the notice appealed from was given or served or the decision or direction appealed from was given; or

(b) in the Court area where the appellant resides.

(2) Sub-rule (1) is subject to any provision or requirement to a different effect in the relevant enactment.

**3 Procedure by notice of appeal**

3. (1) The relevant appeal must be commenced by a notice of appeal (in the remainder of this Order, referred to as “the notice of appeal”) in the Form 40D.01 Schedule C, with such modifications as are appropriate.

(2) A copy of the notice of appeal must be served on the respondent and on every other person directly affected by the appeal. Unless otherwise provided, the notice may be served in accordance with the provisions of Order 41—

—within 14 days from the day on which the notice appealed from was served or the decision or direction first came to the knowledge of the appellant, and

—at least 14 days before the return date.

(3) The appellant must lodge with the Clerk a statutory declaration of service on the respondent and on every other person directly affected by the appeal at least seven days before the return date.

#### **4 Copy documents to be attached**

4. The appellant must also attach to the notice of appeal and to any copy of the notice of appeal served a copy of the notice, decision or direction appealed from and, where appropriate, copies of any other documents or exhibits used in relation to the notice, decision or direction.

#### **5 Court may direct service of the notice of appeal**

5. The Court hearing the appeal may, if it considers it proper, direct that the notice of appeal be served on any person not already served.

### **3 — PARTICULAR APPEALS UNDER STATUTE**

#### **6 Safety Health and Welfare at Work Act 2005**

6. (1) In this rule-

the “Act of 2005” means the Safety Health and Welfare at Work Act 2005 (No. 10 of 2005).

(2) Where an appeal has been brought in the manner prescribed under—

- (a) section 66(7) of the Act of 2005 against an improvement notice,
- (b) section 67(7) of the Act of 2005 against a prohibition notice, or
- (c) section 72(3) of the Act of 2005 against an information notice,

the applicant must ensure that a copy of any order of the Court made on the appeal is served promptly on the respondent and on any other person directly affected by the order.

(3) Where an application has been brought in the manner prescribed under section 67(6) of the Act of 2005 for the suspension of a prohibition notice, the applicant must ensure that a copy of any order of the Court made on the application directing that the operation of a prohibition notice be suspended is served promptly on the respondent and on any other person directly affected by the order.

#### **7 Mental Health Act 2001**

7. (1) In this rule-

the “Act” means the Mental Health Act 2001 (No. 25 of 2001);

the expressions “approved centre”, “centre”, “Commission”, and “registered proprietor” each has the meaning given to it by the Act.

- (2) An appeal under section 65(1) of the Act by:
  - (a) a registered proprietor or, as the case may be,
  - (b) a person intending to be the registered proprietor

of an approved centre, against a decision of the Commission:

- (i) to refuse to register the centre;
- (ii) to remove the centre from the register, or
- (iii) to attach a condition, or to amend or revoke a condition attached, to the registration of the centre

may be made to the Judge assigned to the Court district in which the centre concerned is situated, at any sitting of the Court for that Court district.

(3) The notice of appeal, in the Form 40D.02, Schedule C, must be served on the Commission by the appellant not later than seven days before the return date.

(4) A copy of the decision of the Commission appealed from must be annexed to the notice of appeal.

(5) A statutory declaration of service of the notice of appeal must be filed with the Clerk at least two days before the return date.

## **8 Firearms Act 1925 (as amended by the Criminal Justice Act 2006)**

8. (1) In this rule,

the “Act” means the Firearms Act 1925;

the expression “issuing person” has the meaning given to it by the Act.

(2) Despite rule 2(2), an appeal under section 15A of the Act (inserted by section 43 of the Criminal Justice Act 2006) by a person aggrieved by a decision referred to in section 15A(1) of the Act by an issuing person may be made within the period specified in section 15A(2) of the Act.

(3) An appeal under section 15A of the Act must be made by notice of appeal in the Form 40D.01, Schedule C, with such modifications as are necessary.

(4) The notice of appeal must be issued by the Clerk and served in accordance with the provisions of Order 41 on the issuing person at least 14 days before the return date.

\* Note

Provisions for appeals to the District Court under the:

— Betting Act 1931 are referred to in Order 64 of these Rules.

— Gaming and Lotteries Act 1956 are contained in Order 66 of these Rules.

— Street and House to House Collections Act 1941B are contained in Order 88 of these Rules.

— Wildlife Act 1976 are contained in Order 89 of these Rules.

— Fire Services Act 1981 are contained in Order 92 of these Rules.

— Housing (Private Rented Dwellings) Act 1982 are contained in Order 93 of these Rules.

— Road Traffic Acts 1961 to 1987 are contained in Order 97 of these Rules.

— Safety Health and Welfare at Work Act 1989 are prescribed in regulations entitled District Court (Safety, Health and Welfare at Work Act 1989) Regulations 1989 (S.I. No. 275 of 1989).

**ORDER 40E****PROCEEDINGS BEGUN BY THE ISSUE OF A SUMMONS IN  
MATTERS OTHER THAN CRIMINAL MATTERS\*****1 Application for summons**

1. (1) In any case where these Rules provide that an application to the Court is to be made or civil proceedings in the Court are to be begun by a civil summons, then the applicant, moving party or claimant may apply to the Clerk for the Court area in which the application is to be made or the proceedings are to be begun for the issue of a civil summons for service.

(2) When it is intended to begin proceedings (which are not proceedings to which the Courts (No. 3) Act 1986 relates) in the District Court against a person, and the issue of a summons requiring the appearance of that person before the Court is necessary, on a matter or issue which the Court has jurisdiction to hear and determine by summons, an application to sign and issue the summons may, unless otherwise provided by an enactment or these Rules, be made to the Clerk for the Court area wherein that person ordinarily resides or carries on any profession, business or occupation.

**2 Form, signing and issue of summons**

2. (1) The applicant for the issue of the summons must lodge with the Clerk a duly completed summons, which may be in the Form 40E.01, Schedule C (with such modifications as are appropriate to the case), together with a copy or copies for service.

(2) The summons must include particulars of the relief sought appropriate to the case.

(3) The Clerk must unless otherwise provided by an enactment or these Rules, list the matter or issue for hearing at a sitting of the Court, record the place, date and time of hearing on the summons and copies and, having signed and dated the summons and copies, issue them to the applicant for service.

**3 Court to which the summons is returnable**

3. Every summons issued under this Order must require the appearance of each person to whom it is directed at a sitting of the Court:

- (a) having jurisdiction to deal with the matter or issue set out in the summons;
- (b) for the Court area to which the Clerk issuing the summons is assigned;
- (c) within the Court district in which a Judge of the District Court has jurisdiction in relation to the matter or issue.

#### **4 Service and filing**

4. Save where otherwise provided, the provisions of Order 41 (Service of Documents) apply to summonses signed and issued in proceedings to which this Order relates.

#### **5 Order 15 (in part) to apply**

5. The provisions of rules 4, 5, 6, 7, 8 and 9 (with any necessary modifications) of Order 15 apply to summonses signed and issued in proceedings to which this Order relates.

**\*Note:** Provisions relating to the issue of summonses in respect of offences are contained in Order 15 of these Rules.



## SERVICE OF DOCUMENTS IN CIVIL PROCEEDINGS

### ORDER 41

#### SERVICE OF DOCUMENTS IN THE STATE

#### **1 Definitions**

1. In this Order-

a “document” means a “District Court document” within the meaning of section 7(1) of the Courts Act 1964.

#### **2 Persons authorised to serve documents**

2. (1) In civil proceedings, a document may be served by:

- (a) a summons-server standing assigned to the Court area concerned; or
- (b) any person authorised to do so by the party or person on whose behalf the document is served,

unless these Rules or statute otherwise provide or unless the Court otherwise directs.

(2) The fee to be paid to a summons-server for the service of any document is the sum as determined by the County Registrar from time to time, payable on proof of each separate service effected. Where the fee to be paid for the service of any document is for the time being prescribed by rule of court or otherwise, the fee becomes payable on proof of each separate service effected.

#### **3 Mode of service — registered post**

3. (1) A document in proceedings to which section 7(1) of the Courts Act 1964 relates may, subject to and in accordance with the provisions of, section 7 of the Courts Act 1964, be served by sending a copy of the document by registered prepaid post in an envelope addressed to the person to be served at his or her last known residence or place of business in the State.

(2) The document may be posted by the person on whose behalf it purports to be issued or by a person authorised by him in that behalf.

#### **4 Mode of service — personal service**

4. Personal service of a document in accordance with the provisions of section 7 of the Courts Act 1964 must be effected on a person in the State:

- (a) by delivering a copy of the document to the person to be served, or

(b) where it appears by evidence that the person to be served is personally within the jurisdiction and that due and reasonable diligence has been exercised in endeavouring to effect personal service on him or her, by leaving a copy of the document for the person to be served at his or her last or most usual place of residence, or at his or her office, shop, factory, home or place of business with:

- (i) the husband or wife of the person to be served; or
- (ii) the civil partner of the person to be served; or
- (iii) a child or other relative of the person to be served, who apparently resides with the person to be served; or
- (iv) a child or other relative of the husband, wife or civil partner of the person to be served, who apparently resides with the person to be served; or
- (v) any agent or employee of the person to be served; or
- (vi) the person in charge of the house or premises where the person to be served usually resides,

provided that the person with whom the copy is left:

- (I) is not under the age of 16 years, and
- (II) is not himself or herself the person beginning the civil proceedings.

### **5 Service on a company**

5. (1) A document may be served on a company by leaving a copy of the document at or sending a copy of the document by post to the registered office of the company or, if the company has not given notice to the Registrar of Companies of the situation of its registered office, by registering the document at the office of the Registrar of Companies.

(2) For the purposes of this rule, any document left at or sent by post to the place for the time being recorded by the Registrar of Companies as the situation of the registered office of a company must be deemed to have been left at or sent by post to the registered office of the company notwithstanding that the situation of its registered office may have been changed.

### **6 Service on a local authority or an unincorporated body**

6. A document may be served on a local authority, statutory board or body, or an unincorporated society or club by leaving a copy of the document with any employee of the authority, board, body, society or club at its principal office or by sending a copy of the document by prepaid registered post to its principal office.

## 7 Service on a partnership

7. (1) Where persons are sued as partners in the name of their firm, a copy of the document must be served either:

- (a) on any one or more of the partners; or
- (b) at the principal place within the State at which the business of the partnership is carried on, on any person having at the time of service the control or management of the partnership business there;

and such service must be deemed good service on the firm sued, whether any of the members of the partnership are outside the State or not.

(2) The permission of the Court is not necessary for the issue and service on a partnership of a claim notice or other originating document where one or more of the partners is in the State and one or more outside the State, provided that in the case of a partnership which has been dissolved to the knowledge of the claimant before the civil proceedings are begun, the claim notice or other originating document must be served on every person within the State sought to be made liable.

## 8 Service on a child

8. Where the person to be served is a child, a document is effectively served if served:

- (a) on the father, mother or other guardian having actual custody of the child or with whom the child resides; or
- (b) if the child has no father, mother or other guardian, on the person with whom the child resides or under whose care the child is; or
- (c) on the child's solicitor

unless the Court otherwise decides.

## 9 Service on a ward of court or a person of unsound mind

9. Where the person to be served is a ward of court or a person of unsound mind not so found by inquisition, a document is effectively served if served:

- (a) on the person's solicitor; or
- (b) on the committee of the ward of court; or
- (c) on the guardian *ad litem* of the person to be served; or
- (d) on the person with whom the person of unsound mind resides or under whose care he or she is,

unless the Court otherwise decides.

### **10 Service on a prisoner**

10. Where the person to be served is a prisoner or a person detained in a place of detention under the order of any court or tribunal, service on the governor, director or other person in charge of the prison or place of detention is, unless the Court otherwise decides, good service on the prisoner or person detained.

### **11 Acceptance of service**

11. (1) Service of a document must be deemed good service if the Court is satisfied that a solicitor acting on behalf of the person to be served has accepted service of the document.

(2) Service on the solicitor for a party may be effected:

(a) by delivering a copy of the document to the solicitor; or

(b) by leaving a copy of the document at the solicitor's office; or

(c) by sending a copy of the document by post in an envelope to, the solicitor; or

(d) by sending a copy of the document to a document exchange service designated by that solicitor in accordance with sub-rule (3) through which that solicitor accepts documents.

(3) Delivery or service through a document exchange service under sub-rule (2):

(a) is effective provided that the solicitor concerned has confirmed in writing to the party serving the document or copy (or that party's solicitor) that he or she will accept service of documents in the civil proceedings through the document exchange service designated by him or her;

(b) ceases to be effective where, prior to delivery or service, the solicitor concerned has in writing revoked such confirmation.

(4) Any statutory declaration verifying delivery or service through a document exchange service must exhibit the written confirmation referred to in sub-rule (3) and contain a statement that the confirmation had not, at the time of the delivery or service concerned, been revoked in accordance with this rule.

### **12 Substituted service**

12. (1) Where the Court is satisfied that, for good cause shown, service of a document cannot be effected in a manner or in any manner prescribed by these Rules, the Court may make an order:

(a) for substituted or other service; or

(b) for the substitution for service of notice by advertisement or otherwise.

(2) Particulars of any order for substituted or other service must be endorsed on the original and on each copy of the document to be served.

(3) An application for an order for substituted or other service may be made *ex parte*.

(4) Where the Court is satisfied that any particular mode of service prescribed is at any time not then available, the Court may by order in writing direct that the service of documents or of any particular class of documents be effected in such other manner as it thinks proper.

(5) A direction under sub-rule (4) must be retained by the Clerk and remains in force until the mode of service concerned is again available or until the direction is revoked by the Court.

### **13 Service deemed good**

13. The Court may, if it considers it just to do so, deem the service of any document actually effected in any civil proceedings to be good and effected service, even though the service was not effected in a manner prescribed by these Rules.

### **14 Proof of service**

14. (1) A person who serves a document may prove the service:

(a) by evidence given orally before the Court; or

(b) by statutory declaration as to service made in accordance with the Statutory Declarations Act 1938.

(2) A statutory declaration as to service must be in the Form 41.01, 41.02 or 41.03, Schedule C, as the case may be.

(3) When service of a document on a person has been effected by registered prepaid post, a statutory declaration of service, which must be in the Form 41.01, Schedule C must be made not earlier than ten days after the day on which the envelope containing the copy of the document for service was posted.

(4) A statutory declaration of service by registered post must:

(a) be made by the person who posted the envelope; and

(b) exhibit the certificate of posting; and

- (c) state, where appropriate, that the original document was duly stamped at the time of posting, and
- (d) state that the envelope has not been returned undelivered to the sender.

### **15 Person proving service by statutory declaration need not attend Court**

15. Where a statutory declaration is made, and filed with the Clerk under rule 19:

- (a) the statutory declaration is *prima facie* evidence of the mode, time and place of service as set out in the statutory declaration; and
- (b) it is not necessary for the person who effected service to attend in person at the Court to prove service on oral evidence,

but the Court may, if it considers it necessary, require the person who effected service to attend before it and give evidence concerning the service notwithstanding the making of a statutory declaration.

### **16 Deemed time of service**

16. Where service of a document is effected by registered prepaid post or by ordinary prepaid post, the document must be deemed to be served on the person to whom it was directed at the time at which the envelope containing the copy of the document for service would be delivered in the ordinary course of post.

### **17 Service invalid unless document stamped, where required**

17. Where a document is required by law to be stamped (or payment of a Court fee on the document otherwise recorded), service of the document has no effect or validity unless, at the time of service, the original document was so stamped (or payment of the appropriate Court fee on the document otherwise recorded).

### **18 Time for service before hearing**

18. Save where otherwise provided by another enactment or by these Rules, a document which must be served before a hearing in the Court must be served at least seven days or, in the case of service by registered prepaid post, at least 21 days, before the date fixed for the hearing concerned.

### **19 Time for filing before hearing**

19. Subject to any order or direction of the Court, a document which must be filed with the Clerk before a hearing in the Court, including any statutory declaration of service, must be filed at least four days or, in the case of filing by prepaid post, at least seven days, before the date fixed for the hearing concerned.

**20 Service under Civil Liability and Courts Act 2004**

20. The delivery or service of any notice for the purposes of section 8 or section 17 of the Civil Liability and Courts Act 2004 must be in the manner prescribed in section 4 of that Act.

**ORDER 41A****SERVICE OF DOCUMENTS OUTSIDE THE STATE WITH THE  
PERMISSION OF THE COURT****1 Definitions**

1. In this Order—

“Central Authority”:

- (a) when used in relation to the State, means the Master of the High Court; and
- (b) when used in relation to another State which is a party to the Hague Convention means the authority or authorities designated by that State under Article 2 of the Hague Convention to receive requests for the service of documents;

“document” includes an extrajudicial document;

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

“Receiving Agency”, for the purposes of the Service Regulation:

- (a) when used in relation to the State means any County Registrar; and
- (b) when used in relation to another State in which the Service Regulation applies, means the authority or authorities designated by that State under Article 2 of the Service Regulation to receive requests for the service of documents;

“Service Regulation” means Regulation (EC) No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extra-judicial documents in civil or commercial matters (service of documents) and repealing Council Regulation No. 1348/2000 (O.J. L. 324/79);

“Transmitting Agency”, for the purposes of the Service Regulation:

- (a) when used in relation to the State means any County Registrar; and
- (b) when used in relation to another State in which the Service Regulation applies, means the public officers, authorities or other persons designated by the relevant State under Article 2 of the Service Regulation to transmit requests for the service of documents.



## 2 Cases in which service outside the State may be allowed

2. Service outside the State of a claim notice or other originating document (or of notice of an originating document), may be allowed by the Court in the following cases-

- (a) in proceedings for ejection where the premises sought to be recovered are within the State;
- (b) in proceedings in contract, where the contract is
  - (i) made in the State, or
  - (ii) made by or through an agent trading or residing in the State on behalf of a principal trading or residing out of the State, or
  - (iii) by its terms or implications to be governed by Irish law;
- (c) in proceedings for a breach committed in the State of a contract wherever made (even if such breach was preceded or accompanied by a breach outside of the State which rendered impossible the performance of the part of the contract which ought to have been performed in the State);
- (d) in proceedings in tort, where the tort was committed in the State;
- (e) where any relief is sought against a person domiciled or ordinarily resident in the State;
- (f) where any person outside the State is a necessary or proper party to an action properly brought against another person duly served in the State;
- (g) in proceedings relating to a child or person of unsound mind domiciled in or a citizen of the State;
- (h) where necessary, in proceedings brought under section 38(3) of the Criminal Justice Act 1994 (and in accordance with Order 38, rule 6) for an order authorising the further detention of cash seized.

## 3 How an application for permission to serve outside the State is made

3. (1) An application for permission to serve a claim notice or other originating document, (or notice thereof), on a person outside the State must be made *ex parte* and must be supported by an affidavit, or other evidence, which shows:

- (a) that in the belief of the deponent, the claimant has a good cause of action; and
- (b) where the respondent is or probably may be found; and

(c) whether the respondent (or, as the case may be, the relevant respondent) is or is not a citizen of Ireland; and

(d) the grounds on which the application is made.

(2) Permission must not be granted unless it sufficiently appears to the Court that the case is a proper one for service out of the State under this Order.

#### **4 Documents to be served on the respondent (or relevant respondent)**

4. When an order is made granting permission to serve outside the State under the provisions of this Order,

(1) if the respondent to be served is a citizen of Ireland, the claim notice or other originating document must be served on that respondent, together with any other document required in any particular case to be served;

(2) if the respondent to be served is not, or is not known or believed to be, a citizen of Ireland, notice of the claim notice or other originating document (instead of the document itself) must be served on that respondent, together with any other document required in any particular case to be served;

(3) a copy of the order granting permission must also be served on the respondent with the documents required by sub-rules (1) and (2).

#### **5 Mode of service on the respondent (or relevant respondent)**

5. (1) When permission is granted to serve outside the State under this Order, service must be by registered post or by insured post, as appropriate, or by such other method as the Court directs.

(2) When service under this rule is by registered post, application for an advice of delivery must be made to the postal authorities at the time of posting. Proof of service by post must be by the production of a statutory declaration of service, the certificate of posting and the advice of delivery form (when returned). These documents must be lodged with the Clerk with the originals of the documents of which copies were posted.

(3) Service under this rule by registered post must be taken to have been effected on the day on which the envelope containing the documents would be delivered in the ordinary course of post or on such other day as may be proved.

#### **6 Where the Service Regulation applies (service in the European Union outside the State)**

6. Where the person to be served is in another State in which the Service Regulation applies, service must be in accordance with the provisions of the Service Regulation, which may include:

- (a) service by diplomatic or consular agents, in accordance with Article 13 of the Service Regulation (save where that Member State has communicated, in accordance with Article 23(1) of the Service Regulation, that it is opposed to the service of documents in its territory by diplomatic or consular agents),
- (b) service by registered post in accordance with Article 14 of the Service Regulation; or
- (c) direct service, in accordance with Article 15 of the Service Regulation (save where that Member State has communicated in accordance with Article 23(1) of the Service Regulation that it is opposed to direct service of documents in its territory).

### **7 Where the Hague Convention applies (outside the European Union)**

7. Where the person to be served is in another State which is a party to the Hague Convention (and in which the Service Regulation does not apply), service must be in accordance with the provisions of the Hague Convention, which may include service by post under rule 5 provided the destination State has not objected to postal service under Article 10(a) of the Hague Convention.

### **8 Stay, setting aside service etc.**

8. (1) The Court may make an order on an application by a party served with a claim notice outside the State to—

- (a) set aside the claim notice or its service;
- (b) set aside or vary an order giving permission to serve outside the State where the application for an order—
  - (i) was made on notice to the party, but the party did not attend the hearing of the application; or
  - (ii) was not made on notice to that party;
- (c) stay the claim notice.

(2) Without limiting sub-rule (1), the Court may make an order under this rule on the ground that service out of the State is not authorised by these Rules.

(3) The Court may make an order under this Rule before an application is made under rule 13 or before an order of the Court is made on such an application.

### **9 Service of counterclaim or third party notice**

9. (1) This rule applies to—

- (a) a counterclaim against the claimant and another person joined as respondent in accordance with Order 43 if the person joined is not already a party to the proceeding; and
- (b) a third party notice filed in accordance with Order 42A.

(2) A counterclaim or third party notice may be served out of the State without permission where the claim made by the respondent in the counterclaim or third party notice is of such a kind that, if the claim were made by claim notice, the claim notice could be served out of the State without permission of the Court under Order 41B.

### **10 Procedure**

10. (1) Where a document for use in civil or commercial proceedings in the Court is to be served on a person in another State in which the Service Regulation applies, that document must be served in accordance with the provisions of the Service Regulation.

(2) Where a document for use in civil or commercial proceedings in the Court is to be served on a person in another State in which the Service Regulation does not apply but which is a party to the Hague Convention, that document must be served in accordance with the provisions of the Hague Convention.

### **11 Lodgment of documents for service**

11. (1) A request for service of documents outside the State in civil proceedings in the District Court may be made by:

- (a) a party;
- (b) a solicitor acting for a party; or
- (c) a Clerk.

### **Service Regulation**

(2) A person requesting service of a document abroad under the Service Regulation must lodge with the Transmitting Agency as appropriate:

- (i) a request for service of the document in the form specified in the Annex to the Service Regulation, and a copy thereof;
- (ii) two copies of the document to be served, and an additional copy for each person to be served;
- (iii) a translation of each document into the official language or one of the official languages of State addressed, or in another language which that State has indicated it can accept, unless that document is already in one of those languages;

- (iv) an undertaking to pay the costs of service, payment or reimbursement of which these may be sought by the Receiving Agency of the State addressed;

and the relevant provisions of Order 11D of the Rules of the Superior Courts apply in every such case.

### **Hague Convention**

(3) A person requesting service of a document abroad under the Hague Convention must lodge with the Central Authority (Master of the High Court):

- (i) a request for the service of the document in the form specified in the Annex to the Hague Convention, and a copy thereof;
- (ii) two copies of the document to be served, and an additional copy for each person to be served;
- (iii) a translation of each document into the official language or one of the official languages of State addressed, or in another language which that State has indicated it can accept, unless that document is already in one of those languages;
- (iv) an undertaking to pay the costs of service, payment or reimbursement of which these may be sought by the Central Authority of the State addressed;

and the relevant provisions of Order 11E of the Rules of the Superior Courts apply in every such case.

### **12 Certificate of service**

12. (1) A certificate of service completed and forwarded under:

- (a) Article 10 of the Service Regulation by the Receiving Agency; or
- (b) Article 6 of the Hague Convention by the Central Authority addressed or any authority which it may have designated for that purpose

must be taken to be *prima facie* evidence of the facts stated in that certificate.

(2) A document purporting to be such a certificate must, until the contrary is proved, be deemed to be such a certificate.

(3) On receipt of a certificate mentioned in sub-rule (1), the claimant (or the claimant's solicitor) must lodge the certificate with the Clerk.

**13 Procedure on non-appearance of the respondent**

13. (1) Where a claim notice or other document instituting proceedings (or notice thereof) was transmitted abroad for service under the Service Regulation or the Hague Convention and the respondent has not filed and served an appearance and defence or otherwise given notice of intention to defend the claim, judgment must not be given until it is established that:

- (a) the originating document or notice was served by a method prescribed by the internal law of the State addressed for service of documents in domestic civil proceedings on persons within its territory, or
- (b) the document or notice was actually delivered to the respondent or to the respondent's residence by another method provided for by the Service Regulation or the Hague Convention,

and, in either of these cases, the service or the delivery was in sufficient time to enable the respondent to defend.

(2) An application for judgment in default of appearance and defence in a case mentioned in sub-rule (1) may be made by filing an affidavit with the Clerk, but the Clerk may in any such case list the application before the Court for hearing and notify the claimant of the return date of the application.

(3) At the hearing of any application in the proceedings the Clerk must produce to the Court any communication or correspondence received from the respondent.

**14 Judgment may be given despite absence of certificate of service**

14. Despite rule 10, the Court may give judgment even if no certificate of service or delivery as provided by the Service Regulation or the Hague Convention has been received, if all of the following conditions are fulfilled-

- (a) the document or notice thereof was transmitted by a method provided for in the Service Regulation or the Hague Convention,
- (b) a period of not less than six months, considered adequate by the Court in the particular case, has elapsed since the transmission of the document or notice,
- (c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

**15 Time for appeal may be extended**

15. (1) Where a claim notice or other document instituting civil proceedings (or notice thereof) was transmitted abroad for service under the

Service Regulation or the Hague Convention and judgment has been given against a respondent who has not appeared, the respondent may apply to extend the time for appealing from the judgment.

(2) An application by a respondent under sub-rule (1) must be made by motion on notice and must be grounded on the affidavit of the moving party.

(3) On hearing the application, if the Court is satisfied that-

(a) the application was made within a reasonable time after the respondent had knowledge of the judgment and

(b) without any fault on his or her part, the respondent did not have knowledge of the documents in sufficient time to defend or, as the case may be, knowledge of the judgment in sufficient time to appeal, and

(c) the respondent has a *prima facie* defence to the claim on the merits,

the Court may extend the time for appealing from the judgment on such terms and conditions as the Court considers just.

**ORDER 41B****SERVICE OF DOCUMENTS OUTSIDE THE STATE WITHOUT  
THE PERMISSION OF THE COURT**

SUBSEQUENT PROCEEDINGS UNDER-

COUNCIL REGULATION (EC) NO 44/2001 ON JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS (the “Jurisdiction Regulation”)

THE BRUSSELS CONVENTION OF THE EUROPEAN COMMUNITIES ON JURISDICTION AND THE ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS, 1968 (the “Brussels Convention”)

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 (the “Lugano Convention”)

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 (the “Maintenance Regulation”)

THE ROME CONVENTION BETWEEN THE MEMBER STATES OF THE EUROPEAN COMMUNITIES ON THE SIMPLIFICATION OF PROCEDURES FOR THE RECOVERY OF MAINTENANCE PAYMENTS (the “Rome Convention”) AND THE MAINTENANCE ACT 1994

THE NEW YORK CONVENTION ON THE RECOVERY ABROAD OF MAINTENANCE (the “New York Convention”) AND THE MAINTENANCE ACT 1994

THE HAGUE CONVENTION ON JURISDICTION, APPLICABLE LAW, RECOGNITION, ENFORCEMENT AND CO-OPERATION IN RESPECT OF PARENTAL RESPONSIBILITY AND MEASURES FOR THE PROTECTION OF CHILDREN 1996 (the “Hague Child Convention”)

**1 — DEFINITIONS****1 Definitions****Civil and commercial matters: definitions**

1. (1) In and for the purposes of Part 2 of this Order-



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

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 1998 Act);

“domiciled” must 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 1998 Act and Articles 52 and 53 of the Brussels Convention;

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

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); 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) and by the Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community (O.J. L. 112/21 of 24 April 2012);

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 1998 Act 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.

**Maintenance matters: definitions**

(2) In and for the purposes of Parts 3 to 7 of this Order:

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

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

the “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);

“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);

“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 1994 Act to discharge the functions required of it under the 1994 Act 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 1994 Act, 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 1994 Act 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 1994 Act 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 1998 Act,
- (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 1994 Act;

“domiciled” and “habitually resident”, when used in relation to maintenance proceedings, must 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) must 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 1998 Act) 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 1994 Act 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 1994 Act by a person residing in the State.

### **Service: definitions**

- (3) In this Order:

“Hague Convention” means the Hague Convention of 15 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 41A, rule 1.

## **2 — CROSS-BORDER CIVIL AND COMMERCIAL PROCEEDINGS IN THE STATE**

### **Jurisdiction Regulation**

#### **Brussels Convention**

#### **Lugano Convention**

### **2 Venue in cross-border insurance matters**

2. When it is proposed to bring proceedings before the District Court by virtue of:

- (a) Article 9 of either the Jurisdiction Regulation or the Lugano Convention, or
- (b) 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, the proceedings may be brought, heard and determined at any sitting of the Court for the transaction of civil business for the Court area in which the policy-holder is ordinarily resident or carries on any profession, business or occupation.

### **3 Venue in cross-border consumer contract claims**

3. When a consumer who is domiciled in the State proposes to bring proceedings before the District Court by virtue of:

- (a) Article 16 of either the Jurisdiction Regulation or the Lugano Convention, or
- (b) 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, the proceedings may be brought, heard and determined at any sitting of the Court for the transaction of civil business for the Court area in which the consumer is ordinarily resident or carries on any profession, business or occupation.

#### **4 Application of the Hague Convention or Service Regulation**

4. (1) The provisions of the Service Regulation apply to civil proceedings brought in the District Court by virtue of the Jurisdiction Regulation.

(2) The provisions of the Hague Convention apply to civil proceedings brought in the District Court by virtue of the Conventions or the Lugano Convention.

(3) When any document for use in such civil proceedings is required by this Part to be served on a person in another State in which the Service Regulation applies, service must be effected in accordance with the provisions (including Articles 7 to 10) of the Service Regulation and this Part.

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

#### **5 Beginning proceedings against a person domiciled abroad**

5. (1) Notwithstanding the provisions of Order 41A, service of proceedings begun 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 permission of the Court.

(2) When 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 commencing the proceedings in the Form 41B.01 Schedule C and not the document itself must be served on that person.

(3) A claimant or claimant's solicitor may begin such proceedings by completing, signing, stamping (if so required) the claim notice or other document beginning the proceedings and filing it, together with duly completed originals and copies of the notice (Form 41B.01 Schedule C) and of a certificate in the Form 41B.02 Schedule C with the Clerk for the Court area for which the proceedings are to be issued.

(4) The Clerk must stamp them with the official stamp showing the date of issue and return the documents to the claimant or claimant's solicitor.

(5) A notice and certificate returned under sub-rule (3) must be served on the respondent 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 41A.

(6) Where the documents are to be served in the European territory of another Member State or Contracting State the time permitted for filing and entering an appearance and defence must be at least five weeks from the date of service. Where the documents are to be served in any non-European territory of another Member State or Contracting State, the time permitted for filing and entering an appearance and defence must be at least six weeks from the date of service.

(7) On 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 claimant (or solicitor for the claimant) must lodge with the Clerk the originals of:

- the claim notice, civil summons or other document instituting the proceedings,
- (where appropriate) the notice of commencement of proceedings (Form 41B.01) which was served,
- the certificate (Form 41B.02) which was served, and
- the certificate of service,

at least four days before the date on which the proceedings are first listed before the Court.

(8) Where service has been effected by registered post or insured post the following provisions must apply-

- (a) the claimant or claimant's solicitor must, not earlier than ten days after the date of posting, lodge with the Clerk the relevant documents listed in sub-rule (7), 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 must, 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 envelope would be delivered in the ordinary course of post;
- (c) the statutory declaration as to service, the certificate of posting and the advice of delivery form must, subject to the provisions of Article 9 of the Service Regulation or, as the case may be, the said Article 15 of the Hague Convention, together be deemed to be sufficient evidence of service.

## **6 Where the respondent is a citizen of Ireland**

6. (1) When proceedings are begun 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 claim notice or other document beginning the proceedings, with necessary modifications, may be served (rather than notice of the document).

(2) Subject to sub-rule (1), the requirements of rule 5 apply in such cases and must be construed accordingly.

## **7 Appearance and defence**

7. Where, in proceedings to which rule 5 or rule 6 relates, a respondent intends to appear or to be represented at the hearing for the purpose of:

- (a) defending the proceedings and/or,
- (b) 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 respondent or respondent's solicitor must file:

- (i) in proceedings begun by claim notice, an appearance and defence; or
- (ii) in proceedings begun by civil summons or other document, a notice of appearance and intention to defend

so soon as to reach the Clerk within the period of five weeks or, as the case may be, six weeks, prescribed by rule 5(6) and within the same period serve a copy on the claimant or claimant's solicitor.

## **8 Hearing of proceedings**

8. (1) The provisions of Order 47A (Judgment in Default in Non-Debt Claims) apply to proceedings to which this Part relates with the modifications identified in Order 47.

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

## **Where the respondent does not appear**

(3) 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 5(5).



- (4) Where the respondent has not filed an appearance, the claimant must, if applying for judgment by default, 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 any 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 respondent was duly served with the document beginning the proceedings or notice of that document, and
  - (e) that the respondent has been able to receive the document beginning the proceedings 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 respondent has filed an appearance or otherwise given notice of his or her intention to defend, judgment must 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 41A, rule 10) have been complied with.
- (6) Notwithstanding 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 Article 19 of the Service Regulation or Article 15 of the Hague Convention (as set out in Order 41A, rule 14) are fulfilled.
- (7) Where the Court gives judgment against a respondent in proceedings to which this rule relates, the claimant, (or claimant's solicitor) must immediately notify the respondent of having obtained the judgment.
- (8) Where judgment has been given in such proceedings against a respondent who has not appeared and the respondent wishes to apply for an extension of time for appeal from the judgment, the provisions of Order 41A, rule 15 apply.

## **9 Enforcement of judgments abroad: provision of documents**

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 1998 Act in respect of a judgment given in the District Court, must lodge with the Clerk for the 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 41B.03 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 on the respondent.

(2) When the judgment has been signed by the Judge and served in accordance with the provisions of rule 10, the Clerk must give to the party requesting them a duly authenticated copy of the judgment, a certificate in the Form 41B.03 Schedule C and a certified true copy or copies of the document or documents referred to in sub-rule 1(c), and must retain the other documents in his or her custody.

## **10 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 on a respondent a judgment given at a sitting of the District Court, service must be effected by or on behalf of the claimant in accordance with the provisions of the Service Regulation or the Hague Convention and this Part.

(2) 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, must be lodged with the Clerk for retention with the original judgment.

(3) On the request of a party applying for enforcement of a judgment for the provision of the documents referred to in Article 47.1 of the Brussels Convention, the Clerk must give to that party a certificate in the Form 41B.04 Schedule C (with any necessary modifications) and a certified copy or copies of the relevant document or documents lodged under sub-rule (2).

(4) On the request of a party applying for enforcement of a judgment for the provision of the certificate referred to in Article 54 of either the Jurisdiction Regulation or the Lugano Convention, the Clerk must give to that party a certificate in the form of Annex V of the Jurisdiction Regulation.

### **3 — CROSS-BORDER MAINTENANCE PROCEEDINGS IN THE STATE**

#### **Maintenance Regulation**

##### **11 Venue in cross-border maintenance matters**

11. When 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, the 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.

##### **12 Application of the Hague Convention or Service Regulation**

12. (1) The provisions of the Service Regulation or of the Hague Convention apply, where relevant, 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 on a person in another Member State, service must be effected in accordance with the provisions (including Articles 7 to 10) of the Service Regulation and this Part.

(3) When any document for use in such proceedings is required by this Part to be served on 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 must be effected in accordance with the provisions (including Articles 8 to 11) of the Hague Convention and this Part.

##### **13 Beginning proceedings against a person domiciled abroad**

13. (1) Notwithstanding the provisions of Order 41A, 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 and, where applicable, the provisions of the Service Regulation or, as the case may be, the Hague Convention), without prior permission of the Court.

(2) When proceedings are begun 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 beginning the proceedings (in the Form 41B.01, Schedule C) and not the document itself must be served on that person.

(3) A claimant or claimant's solicitor may begin proceedings mentioned in sub-rule (2) by completing, signing, stamping (if so required) the maintenance summons or other document beginning the proceedings and filing it, together with duly completed originals and copies of the notice (Form 41B.01, Schedule C) and of a certificate in the Form 41B.02, Schedule C with the Clerk for the Court area for which the proceedings are to be issued.

(4) The Clerk must stamp the documents showing the date of filing and must, having regard to the provisions of sub-rule (6), list the proceedings for hearing before the Court.

(5) Having recorded the place, date and time of hearing on the maintenance summons or other document beginning the proceedings and the notices, the Clerk must return all documents to the claimant or claimant's solicitor.

(6) A notice and certificate returned under sub-rule (5) must be served as indicated in rule 12 or, where appropriate, in accordance with the provisions of Order 41A, on the respondent.

(7) Where the documents are to be served in the European territory of another Member State they must be served at least five weeks before the date of sitting of the Court before which the proceedings have been listed for hearing.

(8) Where the documents are to be served in any non-European territory of another Member State, they must be served at least six weeks before the date of sitting of the Court before which the proceedings have been listed for hearing.

(9) On receipt of the certificate of service prescribed in Article 10 and the Annex of the Service Regulation, the claimant (or claimant's solicitor) must lodge with the Clerk the originals of:

- the maintenance summons or other document beginning the proceedings,
- (where appropriate) the notice that proceedings have been begun (Form 41B.01, Schedule C) which was served,
- the certificate (Form 41B.02, Schedule C) which was served, and
- the certificate of service,

at least four days before the date of the sitting of the Court.

(10) Where service has been effected by registered post or insured post the following provisions apply-

- (a) the claimant or claimant's solicitor must, not earlier than ten days after the date of posting, lodge with the Clerk the relevant documents listed in sub-rule (9), 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 must be deemed to have been issued at the time at which the envelope containing the copies for service was posted;
- (c) the documents must, subject to the provisions of Article 9 of the Service Regulation, be deemed to have been served at the time at which the 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 must, subject to the provisions of Article 9 of the Service Regulation together be deemed to be sufficient evidence of service.

#### **14 Where the respondent is a citizen of Ireland**

14. (1) When proceedings are begun 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 beginning the proceedings, with necessary modifications, may be served (rather than notice thereof).

(2) Subject to sub-rule (1), the requirements of rule 13 apply in such cases and must be construed accordingly. Two notices of appearance and intention to defend must be served in each case.

#### **15 Notice of appearance and intention to defend**

15. Where, in proceedings to which rule 13 or rule 14 relates, a respondent intends to appear or to be represented at the hearing:

- (a) for the purpose of defending the proceedings and/or,
- (b) by virtue of Article 5 of the Maintenance Regulation for the purpose of contesting the jurisdiction of the Court,

the respondent or his or her solicitor must complete, detach and send by post to the Clerk one of the notices of appearance and intention to defend which were received so soon as to reach the Clerk not later than four days before the date fixed for the hearing, and must at the same time complete, detach and send by post to the claimant or solicitor for the claimant the other such Notice received.

#### **16 Hearing of proceedings**

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

(2) The provisions of Order 47 (Judgment in Default) and Order 47A (Judgment in Default in Non-Debt Claims) do 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 must produce to the Court any communication or correspondence received from the respondent.

**-where the 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, the claimant must show to the satisfaction of the Court-

- (a) that each claim made in the document beginning 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 beginning the proceedings or notice of that document, and
- (d) that the respondent has been able to receive the document beginning the proceedings or notice of that document 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 must not be given until the requirements of Article 19 of the Service Regulation (as set out in Order 41A, rule 13) 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 Article 19 of the Service Regulation (as set out in Order 41A, rule 14) are fulfilled.

(8) Where the Court gives a decision against a respondent in proceedings to which this rule relates, the claimant, (or claimant's solicitor) must immediately 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 41A, rule 12 apply in every such case.

### **17 Enforcement of judgments abroad: provision of documents**

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) must file 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 on the respondent, and
- (b) must provide the Clerk with any additional information required by the Clerk.

(2) When the order has been signed and served in accordance with the provisions of rule 18, the Clerk must 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 must retain the other original documents in his or her custody.

### **18 Service of decision and proof of service**

18. (1) Where, for the purposes of enforcing a decision under the Maintenance Regulation, it is necessary to serve on a respondent a decision given at a sitting of the District Court, service must 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.

(2) 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, must be filed with the Clerk for retention with the original judgment.

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

19. (1) 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

must be preceded by the issue and service on the respondent of the appropriate summons or notice of application mentioned in Order 54 or, where appropriate, notice thereof in the Form 41B.01, Schedule C, with any necessary modifications, where the respondent is outside the State, and the provisions of this Part apply to any such application.

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

## **20 Transmission of documents on change of address by maintenance debtor**

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 first Court area must forward to the Clerk for the 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 41B.07, Schedule C,
- (c) a copy of the variation order (if any),
- (d) any other relevant document.

(2) The Clerk receiving the documents must 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.

## **4 — 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**

### **21 Appropriate 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 must 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 must enter the matter before the Court.

(3) On receipt of the documents, the Clerk must—

(a) register particulars of the decision concerned, and

**Notice to maintenance debtor**

(b) by notice in the Form 41B.05, Schedule C, inform the maintenance debtor of the registration of the decision.

(4) The notice must be sent by registered prepaid post and a copy must also be sent by registered prepaid post to the person on whose behalf registration was sought.

**Appropriate Clerk to register particulars of variation etc.**

(5) 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 must register particulars thereof and must by notice inform the maintenance debtor of the registration of the variation or revocation order.

(6) 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 Provisions of Orders 54, 56 and 57 apply**

22. (1) The provisions of Order 54, Order 56 and Order 57 (except rules 7 and 8 of that Order) 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), when:

(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, the 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.

**5 — 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 Registration of orders**

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, the Clerk must 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 must send by registered post to the maintenance creditor and the maintenance debtor a notice in the Form 41B.06, Schedule C.

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

## **24 Request from maintenance creditor**

24. (1) When 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, the 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, the 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.

## **25 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,

must be preceded by the issue and service on the respondent of a summons in the Form 41B.08, Schedule C or, where appropriate, notice of summons in the Form 41B.01, Schedule C, with any necessary modifications, where the respondent is domiciled in a Member State or Contracting State other than the State, and the provisions of this Order apply.

(2) The order of the Court granting the application must be served on a party within the State by registered post and on 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.

## 6 — RECOVERY OF MAINTENANCE

### - Maintenance Act 1994- Part II

#### - Reciprocating Jurisdictions

#### 26 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 apply only to those parts that relate to maintenance, and on receipt of an enforcement order made by the High Court, in relation thereto, the Clerk must proceed as indicated in rule 27.

#### 27 Registration under section 7 of the 1994 Act

27. Where, pursuant to section 7(1) of the 1994 Act, 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 1998 Act, 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 1994 Act, as appropriate, and the orders are sent to the appropriate District Court Clerk, the Clerk must register the documents and proceed to enforce the enforceable maintenance order in accordance with the provisions of this Order.

## 7 — RECOVERY OF MAINTENANCE

### -Maintenance Act 1994

#### -Designated Jurisdictions

#### -The New York Convention

#### 28 Enforcement Order

28. Where:

- (a) 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

- (b) the request is accompanied by an order of a Court in a Contracting State (within the meaning of the 1998 Act), and
- (c) the Central Authority under the 1994 Act transmits the request pursuant to section 14(1)(a) of the 1994 Act to the Master of the High Court for determination in accordance with section 7 of the 1998 Act, and
- (d) the Master, having made an enforcement order in respect of the maintenance order, sends those orders to the appropriate District Court Clerk,

the Clerk must proceed as indicated in rule 27.

### **29 Application for enforcement under section 14 of the 1994 Act**

29. (1) Where the Central Authority under the 1994 Act receives a request referred to in rule 28 and the 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 1994 Act at any sitting of the District Court for the relevant Court district (as set out in section 14(11) of the 1994 Act) for the enforcement of the order.

(2) An application mentioned in sub-rule (1) must be preceded by the issue and service of a notice, in the Form 41B.09, Schedule C on the respondent. The notice must be accompanied by a copy of the documents mentioned in section 14(6) of the 1994 Act. Service must be effected by registered post at least 21 days prior to the return date.

(3) When service has been effected, the applicant must 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 before the return date.

#### **Clerk to send copy orders**

(4) Where, on 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, copies of the order of the Court must be sent by the Clerk to the Central Authority under the 1994 Act and the respondent.

#### **Clerk to enforce order**

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

### **30 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) the 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 under section 14(1)(c)(ii) of the 1994 Act, for the recovery of maintenance in accordance with the request, the application may be made at any sitting of the Court for the relevant Court district (as set out in section 14(11) of the 1994 Act) and must 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 1976 Act, as appropriate.

#### **- on notice**

(2) The application must be preceded by the issue and service of a notice, in the Form 41B.10, Schedule C on the respondent. The notice must be accompanied by copies of the documents mentioned in section 14(6) of the 1994 Act. Service must be effected by registered post at least 21 days before the return date of the application.

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

(4) Where, on hearing the application, the court makes a maintenance order, the Clerk must 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 Deposition**

31. Where the Court, on an application to it under section 14(1)(c) of the 1994 Act, takes evidence from the respondent on sworn deposition, the deposition must be in the Form 41B.11, Schedule C. A copy of the deposition must 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 Transfer to facilitate videolink evidence**

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

**33 Request to give evidence by deposition**

33. (1) A request by the claimant to give evidence on sworn deposition before the District Court under section 15(2)(a) of the 1994 Act may be made at any sitting of the Court for the Court district in which the claimant resides or carries on any profession, business or occupation.

(2) A deposition, taken under section 15(2)(a) of the 1994 Act must be in the Form 41B.12, Schedule C and must include the certificate of the Court required under section 15(2)(a) of the 1994 Act at the foot of the deposition. A certified copy of the deposition and certificate must be given by the Clerk to the claimant.

**34 Certificate under section 15(3)(b) of the 1994 Act**

34. The certificate to be given by the Clerk to a claimant on request, pursuant to section 15(3)(b) of the 1994 Act, must be in the Form 41B.13, Schedule C.

**35 Procedure under section 19 of the 1994 Act**

35. (1) Subject to the provisions of section 19(8) of the 1994 Act, where on request from the Master of the High Court, pursuant to section 19(2) of the 1994 Act, 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 must issue and serve notice, in the Form 41B.14, Schedule C on the person concerned, the Central Authority under the 1994 Act, the Master of the High Court and on such other persons as the Court thinks fit. The notice must 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 must be in the Form 41B.15, Schedule C. The Clerk must 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 1994 Act, the requesting authority makes a request for the taking of evidence directly to the District Court, the provisions of this rule must, 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 must certify the reasons for the non-execution of the request or for the delay in executing it and the Clerk must send the same to the Central Authority under the 1994 Act for transmission to the requesting authority.



## **8 — MISCELLANEOUS PROVISIONS APPLICABLE TO PROCEEDINGS TO WHICH PARTS 3 TO 7 REFER**

### **36 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 1994 Act,

must be paid in euro 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 euro, the payment must 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 euro.

### **37 Clerk to give receipt for and transmit payments**

37. (1) The Clerk must 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 must 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 1994 Act, where applicable.

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

### **38 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.

## **9 — MISCELLANEOUS PROVISIONS APPLICABLE TO PROCEEDINGS TO WHICH PARTS 2, 5 AND 6 REFER**

### **39 Application for order to provide information under Regulation 19(2) of the 2011 Regulations**

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 the application in the Form 41B.16, Schedule C must be filed 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, the Central Authority must forward a copy of the order to the person or body concerned.

### **40 Application for order to provide information under section 20(2) of the 1994 Act**

40. (1) An application by the Central Authority under the 1994 Act to the Court under section 20(2) of the 1994 Act 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 1998 Act) 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 the application in the Form 41B.16, Schedule C must be filed 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, the Central Authority must forward a copy of the order to the person or body concerned.

## **10 — PROCEEDINGS UNDER THE HAGUE CONVENTION 1996**

### **41 Definitions (this Part)**

41. In this Part (rules 41 to 52 inclusive), unless the context otherwise requires:

the “2000 Act” means the Protection of Children (Hague Convention) Act 2000 (No. 37 of 2000);

the “Clerk” means the Clerk for the Court area in which the original application was or is to be heard and decided or in which the original order was made;

each of the expressions “another contracting state”, “Central Authority”, “contracting state”, “the Convention”, “decision”, “judgment”, and “measure” has the meaning assigned to it by section 1 of the 2000 Act.

### **42 Venue for proceedings under the 2000 Act or the Convention**

42. Subject to section 4(2) and section 4(3) of the 2000 Act, proceedings before the Court under the 2000 Act or under the Convention by virtue of the 2000 Act may be brought, heard or determined:

- (a) in the case of proceedings to which section 4(1)(b) or section 4(1)(c) of the 2000 Act applies, at any sitting of the Court for any Court area in the Court district determined in accordance with section 4(1)(b) or, as the case may be, section 4(1)(c) of the 2000 Act;
- (b) in the case of any other proceedings under the 2000 Act or under the Convention by virtue of that Act, at such sitting of the Court or otherwise as is prescribed by these Rules or by statute for proceedings seeking the relief concerned.

### **43 Stay of proceedings**

43. (1) Where the Court has jurisdiction in any proceedings to which the Convention applies, under Article 5 or 6 of the Convention but, on application of a party to the proceedings or of its own motion, considers in accordance with Article 8 of the Convention that the authority of another contracting state would be better placed in the particular case to assess the best interests of the child, the Court may stay the proceedings before it for

a period specified by the Court and, as the Court considers appropriate, either:

- (a) direct the Central Authority to make a request on its behalf to the proper authority of the other contracting state concerned to assume jurisdiction to take such measures of protection as it considers necessary in accordance with Article 8 of the Convention, or
- (b) invite the parties to introduce such a request before the proper authority of the other contracting state concerned in accordance with Article 8 of the Convention,

and the Court may, for those purposes, limit the period of any stay to a period specified by the Court, and adjourn the matter for further consideration.

(2) The Court may discharge a stay ordered in accordance with sub-rule (1) and direct the withdrawal of any request made under paragraph (a) of that sub-rule if the authority in the other contracting state concerned does not assume jurisdiction within the period for which the Court granted the stay.

(3) The Court may discharge a stay ordered in accordance with sub-rule (1) if the parties do not, within the period specified by the court, request the authority in the other contracting state concerned to assume jurisdiction.

#### **44 Application for court to exercise jurisdiction as appropriate court of a contracting state**

44. Where the Court is asked in accordance with the Convention to exercise a jurisdiction conferred on it to take any measures by virtue of being the appropriate court of a contracting state, the document commencing the appropriate proceedings in accordance with these Rules:

- (i) must additionally be entitled in the matter of the provision of the Convention in accordance with which the Court is asked to exercise jurisdiction, and
- (ii) must additionally have appended a copy of any relevant request in writing made by the competent authority of another contracting state, together with a certified translation, where necessary, into Irish or English, or
- (iii) must otherwise set out the basis on which the request to exercise jurisdiction is made.

#### **45 Exchange of views**

45. The Court may give such directions to the Central Authority as are appropriate to facilitate participation in any exchange of views referred to

in Article 8.3 of the Convention or Article 9.2 of the Convention in such manner and by such means as the Court considers most suitable to meet the purposes of the Convention.

#### **46 Orders under Article 11 and Article 12 of the Convention**

46. (1) In any case where the Court has made an order under Article 11 of the Convention, the Court may direct the Central Authority to notify the Central Authority of another contracting state of the making of that order and may direct the first-mentioned Central Authority to make inquiries of the Central Authority of another contracting state as to whether measures referred to in paragraph 2 of Article 11 of the Convention have been taken and, if so, as to the content of those measures.

(2) In any case where the Court has been asked to make an order under Article 12 of the Convention, the Court may direct the Central Authority:

- (a) to make inquiries of the Central Authority of another contracting state as to whether any measures have been taken by the authorities having jurisdiction under Articles 5 to 10 of the Convention and, if so, as to the content of those measures;
- (b) to make inquiries of the Central Authority of another contracting state as to whether a decision (in respect of the measures of protection which may be required by the situation) referred to in paragraph 2 of Article 12 of the Convention has been taken and, if so, as to the content of that decision; or
- (c) to notify the Central Authority of another contracting state of the making by the Court of an order under Article 12 of the Convention.

(3) For the purpose of enabling the Court to record that measures taken in accordance with Article 11 of the Convention have lapsed, the moving party in any proceedings to which sub-rule (1) applies in which measures were taken by the Court in accordance with Article 11 of the Convention must promptly notify the Clerk in writing as soon as the authorities which have jurisdiction under Articles 5 to 10 of the Convention have taken the measures required by the situation or, as the case may be, as soon as the measures required by the situation and taken by the authorities of another state are recognised by the contracting state in question.

(4) For the purpose of enabling the Court to record that measures taken in accordance with Article 12 of the Convention have lapsed, the moving party in any proceedings to which sub-rule (2) applies in which measures were taken by the Court in accordance with Article 12 of the Convention must promptly notify the Clerk in writing as soon as the authorities which have jurisdiction under Articles 5 to 10 of the Convention have taken a decision in respect of the measures of protection which may be required by the situation or, as the case may be, as soon as the measures required by

the situation and taken by the authorities of another state are recognised by the contracting state in question.

(5) Where the moving party fails promptly to notify the Clerk in accordance with sub-rule (3) or sub-rule (4), the respondent or any other person sufficiently interested may make the necessary notification.

#### **47 Adjourment to make request under Article 34**

47. Without limiting any other power of the Court, the Court may adjourn proceedings under the 2000 Act for the purpose of making a request under Article 34 of the Convention.

#### **48 Request under Article 24**

48. (1) A request to the Court by an interested party (in accordance with section 3(2) of the 2000 Act) pursuant to Article 24 of the Convention to decide on the recognition or non-recognition of a measure taken in another contracting state and/or pursuant to Article 26 of the Convention that a measure be declared enforceable or registered for the purpose of enforcement in the State may at the election of the applicant, be made *ex parte* in the first instance subject to the prior filing with the Clerk of a notice in the Form 41B.17, Schedule C, or otherwise must be made on notice to the respondent by the issue and service on the respondent at least 4 days prior to the date fixed for the hearing of a notice in the Form 41B.17, Schedule C.

(2) An application for such recognition and/or enforcement must be grounded on an affidavit which:

- (a) exhibits the judgment or decision (in this rule referred to as the “decision”) constituting or recording the measure concerned or a certified or otherwise duly authenticated copy thereof (together with a certified translation, where necessary, into Irish or English) and
- (b) where necessary, states the name of the authority in the contracting state concerned and the date on which and place at which the measure was given or ordered, and
- (c) explains concisely the nature and effect of the measure and
- (d) sets out or verifies (or which exhibits and verifies documents which set out):
  - (i) the full name, address and date and place of birth (where available) of each child to whom the measure relates;
  - (ii) the full name, address and date and place of birth (where available) of each person who has, in relation to each such child, rights and/or obligations of a kind mentioned in Article 3 of the Convention;

- (iii) where the request concerns the enforcement of a measure concerning access:
  - (I) the practical arrangements for exercise of rights of access (to the extent stated in the decision), including date and time, start, end and place;
  - (II) any specific obligations on the holders of parental responsibility;
  - (III) any specific obligations on the person with a right of access;
  - (IV) any restrictions attached to the exercise of rights of access;
- (iv) the jurisdiction of the authority concerned to take the measure by reference to Chapter II of the Convention and, where relevant, any findings of fact on which the authority of the contracting state where the measure was taken based its jurisdiction;
- (v) whether the child concerned was given the opportunity to be heard, or where relevant, that the measure was taken in a case of urgency;
- (vi) whether any person having parental responsibility in respect of the child concerned was given the opportunity to be heard, or where relevant, that the measure was taken in a case of urgency;
- (vii) where relevant, whether any measure in respect of the child concerned has been taken in a non-contracting state of the habitual residence of the child;
- (viii) where relevant, that the procedure provided in Article 33 of the Convention has been complied with;
- (ix) documents which establish that, according to the law of the contracting state in which it has been given, the measure is enforceable;
- (x) where applicable, the grounds on which the right to request recognition or non-recognition or that a measure be declared enforceable or registered for the purpose of enforcement is vested in the party making the application.

#### **49 Where evidence not produced**

49. Where the party applying under rule 48 does not produce the evidence or documents referred to in rule 48, the Court may:

- (a) adjourn the application to allow the applicant an opportunity to produce that evidence or those documents, or
- (b) accept equivalent evidence or documents, including by way of oral evidence, or
- (c) dispense with the production of such evidence or documents.

### **50 Enforcement, setting aside and discharge of order**

50. (1) The order of the Court granting a request to decide on the recognition of a measure taken in another contracting state and/or that a measure be declared enforceable or registered for the purpose of enforcement in the State is, subject to sub-rule (2), enforceable for all purposes in accordance with these Rules.

(2) The Court may direct the service by such means as it directs of the order on any person who it appears to the Court may be affected by the making of the order and may stay the operation of the order for a specified period.

(3) Any application consistent with the requirements of the Convention to set aside or discharge such an order must, unless the Court otherwise directs, be preceded by the issue and service on the original applicant of a notice (or, as the case may be, on every person on whom the Court's order has been served) in the Form 41B.18, Schedule C, and the original notice must, unless the Court otherwise allows, be filed with the Clerk at least two days before the return date of the application.

(4) An application under sub-rule (3) must, unless the Court otherwise permits, be brought:

- (a) by a person served with the order in the State, within one month of such service, or
- (b) by a person served with the order in another contracting state, within two months of such service.

(5) The Court may stay the enforcement of the order, on such terms as it sees fit, where such an application is made.

(6) The original applicant must apply promptly to the Court to set aside or discharge an order made in accordance with rule 48 where the measure to which that order relates (in this rule referred to as the "measure concerned") has been set aside or discharged by the authority in the contracting state concerned, or another measure inconsistent with the measure concerned or otherwise affecting the measure concerned taken by the authority of a contracting state having jurisdiction to do so. In such a case, the application to the Court must be grounded on an affidavit:



- (a) which exhibits any document containing or recording the measure setting aside or discharging the measure concerned or, as the case may be, any document containing or recording another measure inconsistent with the measure concerned or otherwise affecting the measure concerned, or a certified or otherwise duly authenticated copy of any such document, together with a certified translation thereof, where necessary, into Irish or English, and
- (b) which states, where necessary, the name of the authority in the contracting state concerned and the date on which and place at which the measure concerned was set aside or discharged or another measure was taken inconsistent with the measure concerned or otherwise affecting the measure concerned, and which explains concisely the nature and effect of the same.

(7) The original applicant must apply promptly to the Court to set aside or discharge, as appropriate, an order made in accordance with sub-rule (1) where the measure concerned has been varied by the authority in the contracting state concerned. Any interested party may make a further request to the Court in relation to the variation in accordance with section 3(2) of the 2000 Act and rule 37.

(8) Where the original applicant fails to apply promptly to the Court in a case to which sub-rule (6) or sub-rule (7) applies, the original respondent or any other person sufficiently interested may make the necessary application to the Court.

(9) An application to which sub-rule (3) or (6) applies must be heard and decided on affidavit, but the Court may receive oral evidence of any matter to which the application relates, as it considers necessary.

#### **51 Certificate under section 6 of 2000 Act**

51. (1) A certificate of the Court for the purposes of section 6 of the 2000 Act (in the Form 41B.19, Schedule C) must be provided on application in writing to the Clerk for that purpose. Where appropriate, certified copies of any relevant order of the Court in the proceedings and of any document filed as proof of service in the proceedings may be appended to the certificate.

(2) Where the applicant (or an authority of another contracting state) requests further particulars of the proceedings to which the certificate relates, the Clerk, having consulted with the Judge, and subject to Article 37 of the Convention, may certify such further particulars.

#### **52 Application of Order 58, rules 3 and 10 to 13 inclusive**

52. The provisions of Order 58, rules 3 and 10 to 13 inclusive, apply with any necessary modifications to proceedings under the 2000 Act and reference to “the Act” in those rules must be read, for these purposes, as a reference to the 2000 Act.

**ORDER 42****DEFENCE, PARTICULARS AND COUNTERCLAIM****1 — APPEARANCE AND DEFENCE****1 Appearance and defence**

1. (1) A respondent who intends to defend civil proceedings must give, or send by post, to the claimant or solicitor for the claimant an appearance and defence, in the Form 42.01, Schedule C, not later than 28 days after the service on him or her of the claim notice, and must at the same time file a copy of his or her appearance with the Clerk.

(2) Where a claim notice or other originating document (or notice thereof) is served outside the State in accordance with these Rules and any order of the Court, the time within which a respondent served outside the State must serve his or her appearance and defence on the claimant and file a copy of his or her appearance with the Clerk is:

- (a) five weeks after the service of the claim notice or other originating document (or notice thereof) exclusive of the day of service where the claim notice, other originating document or notice is served in the European territory of another Member State of the European Union, or
- (b) six weeks after the service of the claim notice or other originating document (or notice thereof) exclusive of the day of service where the claim notice, other originating document or notice is served in any non-European territory of a Member State of the European Union.

(3) A defence must—

- (a) contain a statement that the respondent intends to defend the claim notice; and
- (b) state the name and address of the respondent and an address for service in the European Union at which documents required to be served on the respondent may be left; and
- (c) if the respondent defends by a solicitor, state the name or firm and business address within the European Union of the solicitor and also, if the solicitor is an agent of another, the name or firm and business address of the principal.

(4) Where a civil summons which does not require the delivery of a written defence (or notice thereof) is served outside the State in accordance with these Rules and any order of the Court, the respondent may notify his or her intention to appear and contest the claim by serving an appearance in Form 42.02, Schedule C on the claimant and filing a copy of his or her

appearance with the Clerk within the period specified in sub-rule (2). A respondent on whom a civil summons which does not require the delivery of a written defence is served within the State is not required to serve or file such an appearance.

## **2 Appearance and defence to debt claim**

2. (1) An appearance and defence in a debt claim must be in Form 42.03, Schedule C. A respondent who intends to defend a debt claim must give, or send by post, to the claimant or solicitor for the claimant his or her appearance and defence not later than 28 days after the service on him or her of the claim notice, and must at the same time file a copy of his or her appearance with the Clerk.

(2) A defence in a debt claim must state whether the claim is:

- (a) disputed as to both liability and amount;
- (b) disputed only as to amount and if so, what amount is admitted to be due;
- (c) admitted in full and if so, whether the respondent proposes to pay immediately or requires time for payment.

## **3 Appearance and defence in claims other than debt claims**

3. (1) Unless the respondent requires further particulars of statement of claim, a respondent to a claim other than a debt claim who contests or disputes all or part of a claimant's claim must serve an appearance and defence in Form 42.01, Schedule C on the claimant at the address for service stated in the claim notice and must file a copy of the appearance with the Clerk.

(2) A defence must state which of the facts stated in statement of claim are—

- (a) admitted;
- (b) denied;
- (c) not admitted.

(3) A respondent who, in the defence, does not state whether a fact stated in statement of claim is—

- (a) admitted;
- (b) denied;
- (c) not admitted—

must be taken to admit the fact.

(4) A respondent who states that a fact stated in statement of claim is denied must—

(a) give reasons for denying the fact; and

(b) if the respondent intends to prove a fact different from that stated in the statement of claim, state, with necessary particulars, the fact that the respondent intends to prove.

(5) The respondent must state specifically, with particulars, any fact or matter which—

(a) makes the claim of the claimant not maintainable; or

(b) if not stated specifically, might take the claimant by surprise; or

(c) raises questions of fact not arising out of the statement of claim.

(6) If the defence arises by or under any enactment, the defence must identify the specific provision relied on.

(7) A defence must be divided into paragraphs numbered consecutively, and each fact or matter stated, so far as is practicable, must be contained in a separate paragraph.

(8) A defence must contain a list of all correspondence and other documents (other than any documents already identified in the statement of claim) on which the respondent will rely at the trial including the date if any and a brief description of each document.

(9) The respondent may not rely on the defence of tender unless, within seven days after filing an appearance and defence, the respondent pays to the Clerk the amount alleged to have been tendered.

(10) Despite sub-rule (1), a respondent who has entered an appearance and defence in a debt claim which complies with the requirements of rule 2 is not required to serve and file a defence which complies with the requirements of this rule unless an order has been made in the application for judgment on affidavit refusing judgment and giving permission to defend, in which case, the respondent must serve and file a defence which complies with the requirements of this rule within 21 days after the order is made.

#### **4 Late filing and service of appearance and defence**

4. A respondent may serve an appearance and defence and file an appearance at any time after the service of a claim notice with the written consent of the claimant, but an appearance and defence may not be served, except by permission of the Court, if the claimant has obtained judgment in default of appearance.

## **5 Amendment of defence where particulars given**

5. Despite rules 2 and 3, a respondent who has required further particulars of the claimant's statement of claim may serve and file an amended defence:

- (a) not later than 28 days after receipt of further particulars of the claimant's statement of claim; or
- (b) at any other time with the permission of the Court.

## **2 — CHANGE OF SOLICITOR**

### **6 Notice of change, appointment or discharge of solicitor**

6. (1) A party suing or defending by a solicitor may change his or her solicitor, or discharge his or her solicitor and sue or defend in person.

(2) A party suing or defending in person may appoint a solicitor without an order for the purpose.

(3) Notice of any change, discharge or appointment of a solicitor (Form 42.04 or 42.05, Schedule C as appropriate) must be filed with the Clerk, and served on the opposite party, or his solicitor (if any), and on the solicitor discharged.

## **3 — NOTICE REQUIRING COPY DOCUMENTS OR FURTHER PARTICULARS**

### **7 Does not apply to debt claims or small claims**

7. This Part does not apply to small claims and unless otherwise ordered by the Court, this Part does not apply to debt claims.

### **8 Copy documents or further particulars from claimant**

8. A respondent may at any time before or at the time of delivery of a defence apply to the claimant in writing:

- (a) for copies of all or any of the documents listed in the statement of claim on which the claimant relies or referred to in the statement of claim (Form 42.06, Schedule C);
- (b) requiring the claimant to provide further particulars which the respondent asserts are reasonably necessary as to specified matters in the statement of claim (Form 42.07, Schedule C).

### **9 Copy documents or further particulars from respondent**

9. A claimant may within 28 days after delivery of a defence apply to the respondent in writing:

- (a) for copies of all or any of the documents listed in the defence on which the respondent relies or referred to in the defence (Form 42.06, Schedule C);
- (b) requiring the respondent to provide further particulars which the claimant asserts are reasonably necessary (Form 42.07, Schedule C).

### **10 Failure to give copies or particulars**

10. (1) If a party fails to comply with a notice requiring copies of listed documents or requiring further particulars within 21 days of service of the notice, the Court may make an order requiring the party to provide the copies or the necessary particulars within a time specified by the Court.

(2) Such an order may provide that on failure to do so—

- (i) if the party is a claimant, that the claim notice be dismissed; or
- (ii) if the party is a respondent, that the party's defence, if any, be struck out.

(3) An application for an order under sub-rule (1) must be made before a date is fixed for hearing of the claim notice.

### **11 Amendment of pleading where particulars given**

11. A party who has required further particulars of another party's pleading may serve and file an amended statement of claim or other pleading:

- (a) not later than 28 days after receipt of further particulars; or
- (b) at any other time with the permission of the Court.

### **12 Application to counterclaims and third party claims**

12. This Order applies, with any necessary modification, to a counterclaim and to a claim by third party notice as if the counterclaim or the third party claim were a civil proceeding.

### **13 Costs of particulars**

13. Unless otherwise ordered by the Court:

- (a) the costs of requesting particulars may only be allowed as part of the successful party's costs against the unsuccessful party where, and only where, the particulars are certified as necessary by the Court; and
- (b) the costs of replying to particulars may be recovered by the unsuccessful party against the successful party where the particulars are not certified as necessary by the Court.

## 4 — COUNTERCLAIM

### 14 When counterclaim permitted

14. (1) A respondent may set off or set up any right or claim the respondent alleges he or she has against the claimant as a counterclaim against the claim of the claimant, whether the respondent's claim is a claim in damages or not.

(2) A set off or counterclaim has the same effect as a cross action, so as to enable the Court to determine both the claim and the counterclaim at the same trial.

(3) The Court may, on the application of the claimant before the trial, refuse permission to the respondent to avail himself or herself of the counterclaim if in the opinion of the Court, the set off or counterclaim cannot be conveniently disposed of in the trial of the claimant's claim, or ought not to be allowed.

(4) These Rules apply to a counterclaim as if the claimant were the respondent and the respondent were the claimant.

(5) A respondent who counterclaims must file and serve the counterclaim with his or her defence, unless the Court otherwise permits.

(6) A counterclaim must be in Form 42.08, Schedule C.

## 5 — STAY OR DISMISSAL OF CLAIM AND STRIKING OUT STATEMENT OF CLAIM OR DEFENCE

### 15 Stay or order in proceeding

15. (1) The Court may at any stage of the civil proceedings order to be struck out or amended any matter in any pleading which is unnecessary or scandalous, or which may tend to prejudice, embarrass, or delay the fair trial of the civil proceedings.

(2) The Court may in any such case, if it thinks fit, order the costs of the application to be paid as between solicitor and client.

(3) The Court may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer and in any such case or in case of the claim or defence being shown by the pleadings to be frivolous or vexatious, the Court may order the claim to be stayed or dismissed, or judgement to be entered accordingly, as the Court considers just.

**16 Striking out a pleading**

16. (1) If a statement of claim or defence or any part of a statement of claim or defence—

(a) does not disclose a cause of action or defence;

(b) is scandalous, frivolous or vexatious;

(c) may prejudice, embarrass or delay the fair hearing of the proceeding; or

(d) is otherwise an abuse of the process of the Court—

the Court may order that the whole or part of the statement of claim or defence be struck out or amended.

(2) This rule, with any necessary modification, applies where the respondent counterclaims or claims against a third party.



**ORDER 42A****THIRD PARTY PROCEDURE****1 Claim against a person not already a party**

1. Where in any civil proceedings a respondent
  - (a) claims any contribution or indemnity against any person not already a party (in this Order, a “third party”), or
  - (b) claims against a third party any relief or remedy relating to or connected with the original subject matter of the proceedings and substantially the same as some relief or remedy claimed by the claimant, or
  - (c) requires that any question or issue relating to or connected with the original subject matter of the proceedings should be determined not only as between the claimant and the respondent but also as between either or both of them and a third party,

the respondent may within ten days of the service on him or her of the claim notice or notice of application (exclusive of the date of service) issue and serve on the third party a notice (in this Order, a “third party notice”) (in Form 42A.01 or 42A.02, Schedule C, as the case may be), containing a statement of the nature of the claim against the respondent and the nature and grounds of the respondent's claim against the third party or of the question or issue to be determined.

**2 Copy of claim notice to be served**

2. The respondent must serve a copy of the claim notice or notice of application on the third party with the third party notice.

**3 Copy to be filed**

3. The respondent must within ten days of the service on him or her of the claim notice or notice of application (exclusive of the date of service) serve a copy of the third party notice on the claimant or claimant’s solicitor and file a copy of the third party notice with the Clerk.

**4 Service**

4. The provisions of Order 41 relating to the service of documents apply to the service of a third party notice.

**5 Third party becomes a party on service**

5. Where a third party notice is served on the third party, the third party is, as from the time of service, a party to the civil proceeding with the same rights as if he or she had been sued in the ordinary way by the respondent by whom the third party notice was issued or by the claimant.

## **6 Appearance and defence to third party notice**

6. (1) Where a third party disputes the claim by the respondent against him or her or the claim by the claimant against the respondent, Order 42 applies as if the third party notice were a claim notice served by the respondent on the third party.

(2) The third party must, within 28 days of the service of the third party notice, give or send by post to the respondent or respondent's solicitor and to the Clerk notice of appearance and defence to the third party notice (in the Form 42.01 or 42.03 Schedule C with the necessary modifications) or an appearance and notice requiring particulars, and the provisions of Order 41 (relating to defence and counterclaim) and Order 45 (relating to lodgment) apply *mutatis mutandis* to the proceedings on the third party notice.

## **7 Set aside by the Court**

7. Proceedings on a third party notice may at any stage be set aside by the Court.

## **8 Where no defence delivered**

8. Where a third party fails to deliver a defence, he or she is bound by any judgment (including by consent) or decision in the proceedings so far as it is relevant to any claim, question or issue stated in the third party notice.

## **9 Court may grant judgment or order**

9. Where in any civil proceedings a respondent has served a third party notice, the Court may at or after the trial, or if the proceedings are decided otherwise than by trial, on an application by motion grant such judgment or order to or against any party or parties as the nature of the case requires.

## **10 Execution not to issue without leave**

10. Where in civil proceedings judgment is given or an order is made against a respondent and judgment is given or an order is made in favour of that respondent against a third party, execution may not issue against the third party without the leave of the Court until the judgment or order against the respondent has been satisfied.

## **11 Claim against person already a party**

11. Where in any civil proceedings a respondent claims against any person already a party:

- (a) any contribution or indemnity, or
- (b) any relief or remedy relating to or connected with the original subject matter of the proceedings and substantially the same as some relief or remedy claimed by the claimant, or

- (c) that any question or issue relating to or connected with the original subject matter of the proceedings should be determined not only as between the claimant and the respondent but also as between either or both of them and that person,

the respondent may, within ten days of the service on him or her of the claim notice or notice of application (exclusive of the date of service) issue and serve on that other party a notice in the prescribed form (Form 42A.03 Schedule C) containing a statement of the nature and grounds of the respondent's claim or of the question or issue to be determined. This rule does not apply to any claim which could be made by counterclaim.

**ORDER 43****JOINING CLAIMS AND PARTIES****1 — DEFINITIONS****1 Definitions**

1. In this Order—

“birth certificate” means a certified extract from the Register of Births showing the date of a person’s birth;

“person under a disability” means a child or a person of unsound mind.

**2 — JOINING CLAIMS****2 Joining claims**

2. (1) Two or more claims may be made in one originating document, either alternatively or otherwise, so long as the claims are not mutually inconsistent or based on inconsistent allegations of fact.

(2) Despite sub-rule (1), if it appears to the Court that claims joined in a civil proceeding cannot be conveniently tried together, the Court may order separate trials or may exclude any claim, and may order the necessary amendments, and may make such order as to costs as the Court considers just.

**3 — JOINING MULTIPLE PARTIES****3 Joining claimants**

3. (1) All persons may join as claimants in one civil proceeding in whom any right to relief arising out of the same transactions is claimed to exist, whether jointly, severally, or in the alternative, where, if all of those persons brought separate civil proceedings, a common question of law or fact would arise, but the total amount awarded in a civil proceeding on any single claim form may not exceed the maximum amount which the Court has jurisdiction to award in a civil proceeding, regardless of the number of claimants who may share in, or be awarded a portion of, that amount.

(2) Despite sub-rule (1), if the Court is satisfied on an application by a respondent by notice of motion, that joining all of those persons may embarrass or delay the trial, the Court may order separate trials, or make such other order as it considers just.

(3) When numerous persons have the same interest in one claim (whether as claimants or as respondents), one or more of those persons may sue or be sued, or may be authorised by the Court to defend, in the civil proceedings, on behalf of or for the benefit of all of the interested persons.

(4) Sub-rule (2) does not apply to claims in tort.

(5) No person may be made a claimant without his or her consent.

#### **4 Joining respondents**

4. (1) All persons may be joined as respondents in one civil proceeding against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative.

(2) When the claimant is in doubt as to the person from whom he is entitled to redress, he may join two or more respondents, to the intent that the question as to which, if any, of the respondents is liable, and to what extent, may be determined as between all parties.

(3) When a person residing outside the Court district within which the civil proceedings must be begun under any enactment or these Rules, but within the State, is a necessary and proper party to a civil proceeding properly begun in the Court against a person within the Court district, the first mentioned person may be served with the claim notice or other document without special permission of the Court.

(4) It is not necessary that every respondent be interested in resisting all or every relief sought, or in defending every cause of action included in a civil proceeding in which he or she is a respondent; but the Court may make any order which it considers just, to prevent any respondent from being embarrassed, or put to unnecessary expense, by being required to attend any hearing or application in which he or she has no interest.

#### **5 Respondents to a claim in contract**

5. The claimant may, at his or her option, join as respondents to the same civil proceeding all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

#### **6 Court may join necessary parties**

6. (1) No claim or cause of action may be defeated by reason of the failure to join particular persons as parties.

(2) The Court may in every civil proceeding deal with the subject in controversy so far as regards the rights and interests of the parties actually before the Court.

(3) The Court may, at any stage of civil proceedings, either on or without the application of any party, and on such terms as the Court considers just, make an order:

- (a) striking out the name of any party, whether claimant or respondent, who has been improperly joined, or

(b) adding as a claimant or as a respondent the name of any person who ought to have been joined as a party, or whose presence before the Court may be necessary in order to enable the Court to adjudicate on and settle all the questions involved in the civil proceeding.

(4) A person may not be added as a claimant:

(a) without his consent in writing, or

(b) if the person is under a disability, without the appointment of a guardian *ad litem* or next friend, who must give his or her consent in writing to act in that capacity.

(5) Every person whose name is added as a respondent must be served with the claim notice in the manner prescribed by an order of the Court or otherwise in a manner permitted by Order 41.

(6) A civil proceeding must be taken to have been begun against a person added as a respondent:

(a) on the date of the filing by a claimant of an application to join the party or

(b) where the Court does so of its own motion on the making of the order by the Court adding that person as a respondent.

(7) The Court may not of its own motion add a respondent without the consent in writing of all claimants.

#### **4 — PARTIES UNDER A DISABILITY**

##### **7 Court may appoint next friend or guardian *ad litem***

7. (1) When civil proceedings have been brought on behalf of or against a person under a disability, the Court may appoint a next friend or guardian *ad litem* to act for or on behalf of the person under a disability.

(2) The Court may change a next friend or guardian *ad litem*, and appoint another person in his or her place.

##### **8 Child may sue by next friend**

8. (1) A child may sue by his or her next friend appointed for that purpose.

(2) Where a child sues by his or her next friend, a written authority signed by the proposed next friend (Form 43.01, Schedule C) authorising the commencement and conduct of the civil proceeding on behalf of the child and the use of the name of the proposed next friend as next friend must be filed with the claim notice.

### **9 Child may defend by guardian ad litem**

9. (1) A child may defend by his or her guardian *ad litem* appointed for that purpose.

(2) Where a child defends by his or her guardian *ad litem*, a written authority signed by the proposed guardian *ad litem* authorising the conduct of the defence of the civil proceeding on behalf of the child and the use of the name of the proposed guardian *ad litem* as guardian *ad litem* must be filed with the appearance and defence.

### **10 Person of unsound mind may sue by committee or next friend and may defend by committee or by guardian ad litem**

10. A person of unsound mind whether or not so found by inquisition may sue by his or her committee or next friend, and may defend by his or her committee or by a guardian *ad litem* appointed for that purpose.

### **11 Compromise of claim by a person under disability**

11. (1) If in a civil proceeding a claim is made by or on behalf of or against a person under a disability, no compromise, payment of money or acceptance of an offer, whenever entered into or made, so far as it relates to that claim, is valid without the approval of the Court.

(2) Application for approval must be by notice of motion (which may be in the Form 43.02, Schedule C, with the necessary modifications) filed not later than 28 days after the compromise, payment or acceptance.

(3) No affidavit is required in support of the notice of motion.

(4) The Court may dispense with the requirement of a notice of motion if the application for approval is made at the hearing of the civil proceeding.

(5) On the application, evidence must be given of the date of the compromise, payment or acceptance and the date of birth of the person under disability, and the dates must be stated in any order approving the compromise, payment or acceptance.

(6) If the acceptance of an offer of compromise is approved, the person under a disability must be taken to have made or accepted the offer at the time of approval.

### **12 Court may direct investment of an award to a child**

12. (1) The Court may, subject to the provisions of Order 12A, direct that any money or other personal property to which a child is declared entitled in proceedings before the Court, or the proceeds of any order to pay to a child issued under the Personal Injuries Assessment Board Act 2003, be secured or invested for the benefit of the child in the manner the Court considers advisable.

(2) A copy of any order made under this rule must, where appropriate, be sent by the Clerk to the Accountant.

### **13 Interim payments**

13. (1) Unless the Court otherwise decides, no interim payment out of any money secured or invested on behalf of a child may be made except under an order of the Court made on the application of the child's next friend or guardian *ad litem*.

(2) An application for an interim payment may be made by motion (which may be in the Form 43.03, Schedule C) at any sitting of the Court for the Court district in which the civil proceedings were heard.

### **14 Proceeding in own name on attaining majority**

14. When a child attains majority while proceedings to which this Order relate are still before the Court, an application may be made *ex parte* by the former child's solicitor, next friend or guardian *ad litem* at any sitting of the Court for the Court area in which the proceedings are being heard for an order that the claimant or respondent, formerly a child, may proceed or defend in his or her own name.

### **15 Payment out of sums invested on attaining majority**

15. (1) A person who, on attaining majority, seeks the payment of any money which was secured or invested for his or her benefit while the person was a child, may, where the order directing investment of the award to the child so provides, apply for payment out by request in writing to the Clerk (which may be in the Form 43.04, Schedule C) and:

(a) producing to the Clerk his or her birth certificate and a form of identifying document including a photograph of the person sufficient to identify the person as the person entitled to payment, and

(b) filing with the Clerk a certified copy of his or her birth certificate.

(2) If satisfied by the production of the person's birth certificate and other identifying document, and any other information the Clerk in his or her discretion requires, the Clerk may authorise payment out of the balance of any money remaining to the credit of the person.

(3) In any case of doubt, the Clerk may list the request for payment out before the Court.

(4) In any other case, an application for payment out may be made *ex parte* to the Court.

(5) On hearing a request or application under this rule, the Court may by order direct the payment out to the person of any sum of money which



the Court is satisfied is due to him or her, together with any accrued interest or investment gain, or may make any other order the Court considers just on the application.

### **16 Service of documents**

16. Save where the Court otherwise orders, service of documents on a person under a disability must be in accordance with the provisions of Order 41.

## **5 — TRUSTEES, EXECUTORS AND ADMINISTRATORS**

### **17 Trustees, executors and administrators**

17. (1) Trustees, executors and administrators may sue and be sued on behalf of, or as representing, the property or estate of which they are trustees or representatives, without joining any of the persons beneficially interested in the trust or estate, and must be taken to represent the persons beneficially interested in the trust or estate.

(2) The Court may, at any stage of the proceedings, order any of the persons beneficially interested in the trust or estate to be made parties either in addition to or in lieu of the previously existing parties.

## **6 — PARTNERS**

### **18 Partners may sue or be sued in firm name**

18. Two or more persons claiming or being liable as partners and carrying on business in the State may sue or be sued in the name of the firm of which those persons were partners when the cause of action accrued and in the names of those persons.

### **19 Court may direct provision of particulars of all partners**

19. Any party to a civil proceeding by or against partners suing in the name of a firm may apply by notice of motion to the Court for a statement of the names, descriptions and places of residence of the persons who were, at the time the cause of action accrued, partners in the firm, to be provided and verified as the Court directs.

### **20 Claimants must provide particulars of all partners**

20. (1) When a claim notice is issued by partners in the name of their firm, the claimants or their solicitors must, on receipt of a written demand by any respondent, immediately confirm in writing the names, descriptions and places of residence of all the persons constituting the firm on whose behalf the action is brought.

(2) If the claimants or their solicitors fail to comply with a demand under sub-rule (1), all proceedings on the claim may, on an application for that purpose, be stayed on such terms as the Court directs.

(3) When the particulars of the partners are provided, the claim may proceed in the same manner, and the same consequences in all respects follow, as if each of the partners had been named as claimants in the claim notice, but the civil proceedings must nevertheless continue in the name of the firm.

### **21 Service on partners**

21. Where persons are sued as partners in the name of their firm, the claim notice must be served in accordance with Order 41, rule 10.

### **22 Appearance and defence**

22. Where persons are sued as partners in the name of their firm, the appearance must show individually the names of the persons on whose behalf it is filed; but the defence may be in the name of the firm and all subsequent proceedings may nevertheless continue in the name of the firm.

### **23 Application to proceedings between a firm and a partner**

23. (1) The provisions of this Order apply to civil proceedings between a firm and one or more of its members, and to civil proceedings between firms having one or more members in common, provided that the firm or firms carry on business within the State.

(2) No execution may be issued in proceedings mentioned in sub-rule (1) without the permission of the Court, which must be sought by motion on notice to the party to be affected.

## **7 —PERSONS USING BUSINESS NAMES AND CARRYING ON ACTIVITIES AS A CLUB**

### **24 Person trading under a business name**

24. (1) A person carrying on business in the State in a name or style other than his or her own name, which is not registered under the Registration of Business Names Act 1963, may be sued in the name or style under which he or she carries on business.

(2) The claimant may in such a case apply by notice of motion to the Court for an order directing the person who appears to have control or to be managing the business to provide and verify as the Court directs the name, description and place of residence of the person who at the time the cause of action accrued was carrying on the business concerned.

(3) In cases to which sub-rule (1) applies, service of a claim notice or any other document may be effected by service in accordance with Order 41 on the person carrying on business or on the person who at the time of service

appears to have control or to be managing the business, at the place where the business is carried on.

(4) Service in accordance with sub-rule (3) must be taken to be effective service on the person sued whether or not that person is in or outside the State, and the permission of the Court to issue the claim notice or other document is not necessary.

### **25 Person carrying on activity as a club**

25. (1) Persons carrying on any activity in the State as a club may, in addition to any other manner in which they may be sued, be sued in the name of the club, whether or not the club is registered under the Registration of Clubs (Ireland) Act 1904.

(2) The claimant may in such a case apply by notice of motion to the Court for an order directing the persons who appear to have control or to be managing the activity to provide and verify as the Court directs the names, description and places of residence of the persons who at the time the cause of action accrued were the officers or trustees of the club or the persons otherwise in control of the activity carried on by the club.

(3) In cases to which sub-rule (1) applies, service of a claim notice or any other document may be effected by service in accordance with Order 41 on one of the persons who at the time of service appears to be an officer or trustee of the club, or to have control of the activity carried on by the club, at a place where the activity is carried on.

### **26 Provisions concerning firms to apply in a claim against a person trading under a business name or against a club**

26. In so far as the nature of the case permits, the provisions of these Rules relating to proceedings against firms apply to all cases to which rule 24 or rule 25 applies.

## **8 —CHANGE OF PARTIES**

### **27 Claim does not abate on death or bankruptcy**

27. (1) A claim does not abate by reason of the death or bankruptcy of a party, if the cause of action survives or continues.

(2) A claim or civil proceeding does not become defective by the assignment, creation, or devolution of any estate or title *pendente lite* (or pending administration of an estate).

(3) Whether the cause of action survives or not, a claim does not abate by reason of the death of any party between the verdict or the finding of the issues of fact and the judgment, or between the announcement and recording of the judgment or order.

(4) In any such case, the judgment or order of the Court may be recorded or entered notwithstanding the death.

### **28 Court may join personal representative**

28. (1) This rule applies where a party to civil proceedings dies or is adjudicated bankrupt, or the estate of a party to civil proceedings devolves by operation of law.

(2) In a case to which this rule applies, the Court may, if it considers it necessary for the complete settlement of the questions involved, order that the personal representative, assignee, trustee, or other successor in interest of a party:

- (a) be made a party to the civil proceedings; or
- (b) be served with notice of the civil proceedings,

on such terms as the Court thinks just, and the Court may make such orders for the disposal of the civil proceedings as it considers just.

### **29 Continuation of civil proceedings pending administration of an estate**

29. Where any estate or title to any property is assigned, created or devolved *pendente lite* (or pending administration of an estate), a civil, proceeding may be continued by or against the person to, or on whom, the estate or title has come or devolved.

### **30 Change of parties on death or bankruptcy or other event**

30. (1) This rule applies where:

- (a) the death or bankruptcy of a party or another event which occurred after the civil proceeding was begun causes a change or transmission of the legal interest or liability; or
- (b) a person interested in the claim or civil proceeding has come into existence after the civil proceeding was begun.

(2) Where, in a case to which sub-rule (1) applies, it becomes necessary or desirable that:

- (a) a person who is not already a party should be made a party; or
- (b) a person who is already a party should be made a party in another capacity,

the Court may, by order made *ex parte*, order that the proceedings be carried on between the continuing parties, and a new party or parties, where the Court is satisfied that there has been a change or transmission of a legal interest or liability as specified in sub-rule (1)(a), or that a person interested has come into existence as specified in sub-rule (1)(b).

### **31 Service of an order under rule 30**

31. (1) Unless the Court otherwise directs, an order obtained under rule 30 must be served on each of the continuing parties (or their solicitors) and on each new party (unless the person making the application is himself or herself the only new party).

(2) Subject to rules 32 and 33, an order under rule 30 is from the time of service binding on the person served, and every person served with an order under rule 30 who is not already a party to the civil proceedings must, if a respondent, file and serve an appearance and serve a defence within the same time, and in the same manner, as if he or she had been served with the claim notice.

### **32 Application to discharge or vary an order under rule 30**

32. Where:

- (a) a person who is not under a disability; or
- (b) a person who although under disability, has a guardian *ad litem* in the civil proceedings,

is served with an order under rule 30, the person may apply to the Court to discharge or vary the order under rule 30 at any time within ten days from the service of the order under rule 30 on him or her.

### **33 Service of an order under rule 30 on a person under a disability**

33. Where a person under a disability who does not have a guardian *ad litem* in the civil proceeding is served with an order under rule 30, the person may apply to the Court to discharge or vary the order under rule 30 at any time within ten days from the appointment of a guardian *ad litem* for the person and, until the period of ten days has expired, the order under rule 30 has no force or effect against the person under a disability.

### **34 Order on failure to proceed following death of a party**

34. (1) Where:

- (a) a claimant in a civil proceeding dies, and
- (b) the cause of action survives,

but the person entitled to proceed fails to proceed,

the respondent (or the person against whom the action, proceeding or matter, may be continued) may apply by motion on notice to compel the claimant (or the person entitled to proceed), to proceed within a period to be fixed by the Court.

(2) Where the Court makes an order on an application under sub-rule (1), the court may make an order that, in default of proceeding within the time fixed by the Court, the claim be dismissed with costs.

## 9 —CONSOLIDATION

### 35 Consolidation or hearing together

35. (1) If two or more civil proceedings are pending in the Court, and—
- (a) some common question of law or fact arises in both or all of them;
  - (b) the rights to relief claimed therein are in respect of or arise out of the same transaction or series of transactions; or
  - (c) for any other reason it is desirable to make an order under this rule—

the Court may order the proceedings to be consolidated, or to be heard at the same time or one immediately after the other, or may order any of them to be stayed until after the determination of any other of them.

(2) Any order for the hearing together of two or more proceedings or for the hearing of one immediately after the other, is subject to the discretion of the Court.

**ORDER 44****APPLICATIONS BY NOTICE OF MOTION****1 — PRE-TRIAL APPLICATIONS: GENERAL****1 Application of this Order**

1. (1) Unless otherwise provided by these Rules, this Order applies to any interlocutory or other application in a civil proceeding.

(2) Nothing in this Order limits the power of the Court to make any interlocutory order or give a direction (whether in the presence of some only or all of the parties) without the issue of a notice of motion in an appropriate case.

**2 Form and timing of application**

2. (1) An application in a proceeding made on notice to any person must be made in writing, by notice of motion, unless the Court otherwise orders, and must be supported by an affidavit.

(2) An application by notice of motion is made when the notice of motion is filed in accordance with rule 4.

(3) Unless any statute or rule otherwise provides, the moving party in any application to the Court other than an *ex parte* application or an application for an adjournment must give at least 48 hours' notice in writing to the Clerk of the Court at which such application is to be made. This filing of a notice of motion or notice of application for issue is deemed to be notice to the Clerk of intention to make the application contained in the notice on the return date assigned to it.

**3 Notice of application to other parties or persons**

3. On the return date of a notice of motion the Court may order that the person making the application give notice of it to any other person having a sufficient interest.

**4 Form and filing**

4. (1) A notice of motion must be in Form 44.01, Schedule C, modified as appropriate to the case and must include particulars of the order, direction or other relief sought as appropriate to the case, a summary of the grounds of the application and, where relevant, a statement of the provisions of law including the provisions of any enactment or these Rules relied on in making the application.

(2) A notice of motion must be filed with the Clerk assigned to the Court area in which the proceedings concerned have been issued and assigned a return date by the Clerk.

(3) Where the grounds for the order, direction or other relief sought include the failure or refusal of the opposing party to agree a matter, copies of the correspondence or documents passing between the parties concerned, relevant to the subject matter of the motion must be attached to the original notice of motion.

(4) Where more than one order, direction or other relief is sought against the same party in the same civil proceeding:

(a) so far as practicable, all such orders, directions or other reliefs must be sought in the same notice of motion and a party must not suffer any adverse consequence in the costs to which the party is found to be entitled by reason of having sought several orders, directions or other reliefs in the same notice of motion; and

(b) where practicable, a party must seek all of the interlocutory orders, directions or other reliefs which the party seeks in the civil proceeding on the same return date.

## **5 Service**

5. (1) The applicant must serve a copy of a notice of motion and a copy of any affidavit in support of the notice of motion on every person to whom notice of the motion is to be given unless otherwise provided by these Rules or by an order of the Court.

(2) Every notice of motion must be served on every other party against whom any relief is sought in the motion not less than seven days before the return date.

## **6 Return date**

6. (1) If a notice of motion has not been served a Clerk may, at the request of the party who filed it, amend the notice of motion on or before the return date named in the notice of motion to name another return date.

(2) In any other case, a notice of motion may only be amended by the Court.

(3) A notice of motion must not be amended under sub-rule (1) more than once.

## **7 Copies for Court**

7. (1) The claimant or other moving party must have available in Court on the return date of any motion, for use by the Judge, copies of:

(a) any notice of motion before the Court on that return date; and

(b) any affidavit (and any exhibits) delivered by any party in support of or in opposition to the motion.



(2) Sub-rule (1) does not limit the ability of any party to rely on any affidavit or document at the hearing of an application by motion.

## **8 Adjournment**

8. The Court may adjourn the hearing of an application by notice of motion on such terms as it thinks just.

## **9 Absence of party served with notice of motion**

9. (1) If any person to whom a notice of motion is addressed fails to attend, the Court may hear the application if satisfied that the notice of motion was duly served.

(2) If on an application by notice of motion the applicant fails to attend, the Court may dismiss the application or make such other order as the Court thinks just.

## **2 — APPLICATIONS TO SET ASIDE OR VARY**

### **10 Application to discharge, set aside or vary an order**

10. (1) The Court may, on an application by notice of motion (Form 44.02, Schedule C, modified as appropriate to the case) by the person affected, on notice to the applicant for the original order, discharge, set aside or vary an order which affects a person where the application for the order—

(a) was made on notice to that person, but the person did not attend the hearing of the application; or

(b) was not made on notice to that person.

(2) An order under sub-rule (1) may be subject to such terms as to costs or otherwise as the Court considers just.

**ORDER 45 — LODGMENTS AND TENDERS IN LIEU OF  
LODGMET**

**1 — INTERPRETATION**

**1 Definitions**

1. In this Order—

“claim” includes a counterclaim and any claim made by third party notice;

“claimant” includes a respondent who serves a counterclaim and a party who makes a claim by third party notice;

“lodgment” means a lodgment of money in Court in accordance with rule 2;

“notice of lodgment” means a notice served in accordance with rule 2(3);

“qualified party” means a party identified in rule 9(1);

“respondent” includes a respondent by counterclaim and a party against whom a third party claim is made;

“tender offer” means an offer made under rule 9(2).

**2 — LODGMET**

**2 Application**

2. (1) The respondent may in respect of any claim in a civil proceeding, at any time up to the time prescribed for filing and service of the respondent’s appearance and defence, lodge in Court a sum of money which he or she alleges is sufficient to satisfy the claim.

(2) A lodgment in respect of a claim may be on terms that take into account any other claim between the claimant and the respondent made in the proceeding.

(3) A notice of the making of the lodgment (Form 45.01, Schedule C) must be made in writing in a document other than the appearance and defence.

(4) The notice of lodgment must contain a statement to the effect that it is served in accordance with this Order.

(5) A copy of the notice of lodgment must be served on the party whose claim the lodgment is intended to meet when the appearance and defence to the claim is served on that party.

(6) The original of the notice of lodgment must be filed with the Clerk who must keep it in a separate file.

(7) Neither the Clerk nor any other person may disclose the fact (or the amount) of any lodgment to the Court until all issues between the parties concerned have been decided.

(8) Neither the fact nor the amount of a lodgment may be intimated in a defence or other pleading or document filed in Court (other than the notice of lodgment or any notice of acceptance of a lodgment).

### **3 Time for accepting a lodgment**

3. (1) The party whose claim a lodgment is intended to meet may accept the amount lodged (Form 45.02, Schedule C) within 28 days after the notice of lodgment was served, or at any later time with the written consent of the party who made the lodgment.

(2) Where a late lodgment or an increase to a lodgment is made in accordance with rule 6, the party whose claim the lodgment or increased lodgment is intended to meet may accept the amount lodged within 28 days after the notice of lodgment or notice of increased lodgment was served, or at any later time with the written consent of the party who made the lodgment or increased lodgment.

### **4 Consequences of accepting a lodgment**

4. (1) On acceptance of a lodgment, the amount lodged may be paid to the party accepting it, without any judgment or order by the Court, provided that the party accepting the lodgment has lodged with the Clerk or with the Accountant a signed notice of acceptance of the lodgment in full satisfaction of the claim, save as to costs and, where acceptance of the lodgment requires the consent of the party who made the lodgment, the written consent of that party to late acceptance of the lodgment.

(2) If the amount of costs to which a party who has accepted a lodgment is entitled cannot be agreed between the parties concerned, the Court may, on the application of the claimant or respondent, as the case may be, determine the scale of costs to apply.

### **5 Where a party is under a disability**

5. (1) Despite rule 3, and subject to the provisions of section 63 of the Civil Liability Act 1961 (No. 41 of 1961), where the party whose claim a lodgment is intended to meet is under a disability, then, together with the notice of acceptance of the lodgment there must be served on the party who made the lodgment a notice of motion (Form 44.01, Schedule C, with the necessary insertions and modifications) to have the acceptance of the lodgment approved by the Court.

(2) After a notice of motion has been served in accordance with sub-rule (1), no further step in the proceedings may be taken except with the permission of the Court.

(3) On the hearing of the motion, the moving party may be awarded the amount of costs the Court considers just, whether or not acceptance of the lodgment is approved by the Court.

### **6 Permission to make a late lodgment**

6. (1) Despite rule 2(1), a party may make a lodgment, or may make a further payment into court to increase an existing lodgment—

- (a) in any case where an amendment has been made to the statement of claim in the claim notice (or, as the case may be, the counter-claim or third party notice) in which the claim is made, within 28 days after the amended pleading is served on the party making the lodgment; or
- (b) with the written consent of the party whose claim is intended to be met by the lodgment, within such further period as is permitted in that party's consent, the original of which must be lodged with the Clerk; or
- (c) with the permission of the Court, within such further period as is permitted in the Court's order.

(2) A party who makes or increases a lodgment in accordance with sub-rule (1) must serve a notice of lodgment (or notice of increased lodgment) on the party whose claim is intended to be met.

### **7 Liability for costs where a lodgment is not accepted**

7. (1) Where a party does not accept the amount lodged within the time prescribed, that party is liable for all costs incurred after the lodgment (or increased lodgment) in respect of the proceeding unless the Court decides that the amount due in respect of the claim is greater than the amount lodged in respect of the claim.

(2) Where a Court decides that the amount to which a party is entitled in respect of a claim is less than the amount lodged to meet that claim, the Court must give judgment for the party making the claim for the amount the Court finds to be due, but must award to the party who made the lodgment the costs incurred in respect of the proceedings after the lodgment.

(3) The Court may make an order as to the disposal of the amount lodged in court as the Court thinks just.

(4) Despite sub-rules (1) and (2), the Court may, due to the special circumstances of the case specifically identified by the Court, order that the party who did not accept the lodgment—

- (a) is not liable for any, or a specified amount of the costs incurred after lodgment of the party who made the lodgment; or

- (b) may recover a specified amount of that party's costs incurred after lodgment from the party who made the lodgment.

### **8 Investment of money lodged**

8. The party making a lodgment may by notice to the Clerk or the Accountant request that the lodgment either be placed in a current account or be invested. The party making a lodgment is entitled to payment of any investment gain accruing and the proceeds of any such gain must be paid out to the party who made the lodgment or that party's solicitor on the conclusion of the proceedings, subject to any order the Court may make. Any investment gain does not form part of the lodgment.

### **3 — TENDER OFFER BY QUALIFIED PARTY IN LIEU OF LODGMENT**

#### **9 Qualified parties**

9. (1) A party is as a qualified party for the purposes of this rule if the party is:

- (a) a Minister of Government; or
- (b) the Attorney General; or
- (c) the Government; or
- (d) the State; or
- (e) any party in respect of whom the State is providing an indemnity; or
- (f) an indemnifier of any party authorised to carry on business in the State as an insurance undertaking under the law for the time being in force; or
- (g) the Motor Insurers Bureau; or
- (h) the Visiting Motor Insurers Bureau.

(2) Where a qualified party is entitled to make or increase a lodgment on the qualified party's own behalf or on behalf of any other party under Part 2 of this Order or by order of the Court, then the qualified party may, in lieu of lodging money in Court, make an offer of tender of payment to the party whose claim is intended to be met.

(3) A tender offer made under this rule is deemed to be a lodgment and to have the same effect as a lodgment.

(4) The provisions of Part 2 of this Order apply *mutatis mutandis* to tender offers as regards time for making and accepting them as they apply to a lodgment.

(5) A tender offer must be made in writing in accordance with Form 45.03, Schedule C and must state whether liability is admitted or denied and, subject to rule 2, is to be taken to be part of the pleadings.

(6) Notice of acceptance of a tender offer must be made in writing in accordance with Form 45.04, Schedule C and the provisions of rules 4 and 5 apply to such acceptance.

(7) Where a tender offer has been accepted, the qualified party who made the tender offer must pay the sum specified in the tender offer within 28 days of receipt of notice of acceptance of the tender offer.

(8) A qualified party whose tender offer has been accepted but who has failed to pay the sum specified in the tender offer within 28 days of receipt of notice of acceptance of the tender offer continues to be liable to pay the sum specified and is also liable to pay interest on the sum specified at the rate fixed for judgments of the Court for each day after that 28 day period for which the specified sum or any part of the specified sum remains unpaid.

(9) Any party or qualified party may apply to the Court in relation to any tender offer or any matter relating to a tender offer and the Court may make any order or give any directions on that application as the Court considers just and proper.

**ORDER 45A****SECURITY FOR COSTS****1 Application for security**

1. (1) A party who requires security for costs from another party may apply in writing to that other party for security for costs.

(2) Where the party from whom security has been sought does not undertake in writing to provide security, the applicant for security may apply to the Court for an order that security for costs be provided.

(3) On hearing the application, the Court may order the claimant to lodge in Court the costs of an order dismissing the claim, or may make such other order as it thinks appropriate.

(4) If an order is made requiring a party to give security for costs, security must be given in the manner and at the time the Court directs.

**2 If the claimant is outside the State or is a foreign national**

2. (1) A respondent is not entitled to an order compelling a claimant to give security for costs solely on the ground that the claimant resides outside the State unless the respondent shows to the satisfaction of the Court that he or she has a defence on the merits.

(2) No order for security for costs may be made against a natural person who is a national of and resident in another Member State of the European Union or against a party who applies, under the provisions of the Jurisdiction Regulation or the 1968 Convention (each as defined in Order 41B), for enforcement of a judgment given in another Member State or Contracting State, solely on the ground that the claimant is a foreign national or that the claimant is not domiciled or resident in the State.

**3 Failure to give security**

3. If a claimant fails to give the security required by an order, the Court may dismiss the claimant's claim notice.

**4 Variation or setting aside**

4. The Court may set aside or vary any order requiring a claimant to give security for costs.

**ORDER 45B****DISCOVERY AND INSPECTION OF DOCUMENTS****1 Application of this Order**

1. This Order does not apply to debt claims (unless an order has been made giving leave to defend) or to small claims.

**2 Request for inspection or copies of documents listed in claim notice or defence**

2. (1) A respondent may, at any time after service of a claim notice on him or her and before delivery of an appearance and defence make a request to the claimant in writing for copies of all or any of:

- (a) the correspondence or other documents listed in the statement of claim;
- (b) any other document referred to in the statement of claim.

(2) A claimant may, at any time after service of an appearance and defence on him or her make a request to the respondent in writing for copies of all or any of:

- (a) the correspondence or other documents listed in the appearance and defence;
- (b) any other document mentioned in the appearance and defence.

(3) The party to whom a request under sub-rule (1) or (2) is made must within seven days after receipt of the request:

- (a) provide copies of such of the documents requested as are in his possession or power of procurement on payment of the reasonable charges for copying them; or
- (b) produce such of the documents requested as are in his possession or power of procurement for inspection by the party who made the request, or by his or her solicitor, and permit him or her to take copies.

(4) If so agreed by the parties:

- (a) copies of documents may be provided in electronic form or such other form as is agreed or directed; and
- (b) inspection may be permitted of electronic copies of documents or of documents in electronic form.

(5) A party who fails to comply with a request under sub-rule (1) or (2) may not afterwards put any such document in evidence on his or her behalf,



unless the Court is satisfied that there was a sufficient reason for not complying with the request, in which case the Court may allow the document to be put in evidence on such terms as to costs and otherwise as he or she thinks just.

### **3 Application for discovery following request**

3. (1) Where a party wishes to have discovery of documents in addition to those which may be produced under rule 2, the party must first make a request in writing for voluntary discovery within a period of 21 days from the date of the request.

(2) The request must specify the precise documents or categories of documents in respect of which discovery is sought; provide the reasons why each category of documents is required to be discovered and explain why discovery of the documents sought is necessary for disposing fairly of the claim or for saving costs.

(3) If the party requested fails, refuses or neglects to make discovery or ignores the request, the party seeking discovery may apply to the Court by notice of motion supported by an affidavit for an order directing the party requested to make discovery on oath of the documents which are or have been in his possession or power of procurement, relating to any matter in question in the civil proceeding.

(4) The notice of motion and a copy of any affidavit must be served not less than four clear days before the return date.

(5) On hearing the application, the Court may, having regard to the value of the claim:

- (a) refuse or adjourn the application, if satisfied that discovery is not necessary, or not necessary at that stage of the proceeding; or
- (b) make such order on such terms as to the security for the costs of discovery or otherwise, and either generally or limited to certain classes of documents, as he or she thinks just.

### **4 Order for discovery without motion in urgent cases or by consent**

4. Despite rule 3, in any case where by reason of the urgency of the matter or the consent of the parties, the nature of the case or any other circumstances which to the Court seem appropriate, the Court may make such order for discovery by any party as appears proper, without the necessity for a prior application in writing.

### **5 Affidavit**

5. The affidavit to be made by a party against whom an order for discovery has been made must specify which, if any, of the documents scheduled in the affidavit he or she objects to produce, and must be in accordance with Form 45B.01, Schedule C.

## **6 Order to produce documents for inspection**

6. (1) The Court may at any time while civil proceedings are pending order the production by any party to the civil proceedings, on oath, of such of the documents in his possession or power, relating to any matter in question in the civil proceedings, as the Court thinks right; and the Court may deal with such documents, when produced, in the manner the Court considers just.

(2) If a party served with a request under rule 2(1) or (2) omits to provide copies or notify a time for inspection, or objects to allowing inspection, the Court may, on the application of the party desiring it, make an order for inspection at such time and in such place and in such manner as the Court directs.

(3) An application under sub-rule (2) must be made by motion on notice to be served not later than four clear days before the return date and supported by an affidavit showing of what documents inspection is sought and that they are in the possession or power of procurement of the other party.

## **7 Failure to comply with order for discovery**

7. (1) If a claimant fails to comply with an order for discovery or inspection of documents, he or she is liable to have his or her claim dismissed for want of prosecution.

(2) If a respondent fails to comply with an order for discovery or inspection of documents, he or she is liable to have his or her appearance and defence, if any, struck out, and to be placed in the same position as if he or she had not defended.

## **8 Costs of discovery**

8. In every civil proceeding, unless otherwise ordered by the Court, the costs of discovery are part of the costs of the party seeking discovery, either as between party and party or between solicitor and client, where, and only where, discovery is certified as necessary by the Court.

## **9 Application to children**

9. This Order applies to any claimant or respondent who is a child, and to the next friend or guardian *ad litem* of any such party.

## **10 Inspection of document by Court**

10. Where an application is made for the production or inspection of a document and:

- (a) a claim is made that the document is privileged from production,
- or

(b) an objection to production is made on any other ground,

the Court may inspect the document for the purpose of deciding the validity of the claim or objection.

### **11 Discovery after directions**

11. If the Court gives directions concerning discovery or inspection of documents, no party may, without further order, serve a request for discovery on any other party except in accordance with those directions.

### **12 Discovery or interrogatories by non-party**

12. (1) This rule applies where the Court is satisfied, on the application by notice of motion of a party, that a person who is not a party to the civil proceedings (in this rule, the “non-party”) is likely to have or to have had in his or her possession or power of procurement documents which are relevant to an issue arising or likely to arise out of the claim or proceeding or is or is likely to be in a position to give evidence relevant to such an issue.

(2) On an application mentioned in sub-rule (1), the Court may direct an order to a non-party to answer interrogatories set out in the order or to make discovery or to permit inspection of documents specified in the order.

(3) An order may not be made on an application under sub-rule (1) unless the Court is satisfied that:

- (a) where relevant, the moving party has sought the documents or, as the case may be, the evidence, which is the subject of the application, from a party to the civil proceedings; and
- (b) the documents or, as the case may be, the evidence, which is the subject of the application, is not available from a party to the civil proceedings.

(4) Before issuing of a notice of motion under sub-rule (1), the party seeking discovery from the non-party must first send a request for voluntary discovery in accordance with rule 3, the request being made to the non-party and copied to the other parties to the proceedings.

(5) The party seeking an order under this rule must indemnify the non-party in respect of all costs reasonably incurred by the non-party in answering interrogatories or in making discovery and the costs borne by the party seeking the order must be costs of that party in the civil proceedings.

(6) The provisions of this Order apply with any modifications necessary to an order directed to a non-party as if it had been an order directed to a party to the civil proceedings.

**ORDER 45C**

**APPLICATION TO HAVE A CLAIM FORWARDED TO THE  
CIRCUIT COURT OR TO THE HIGH COURT**

**1 Form of application**

1. An application to have a claim forwarded to the Circuit Court or to the High Court under section 22(8)(b) of the Courts (Supplemental Provisions) Act 1961 (inserted by section 21 of the Courts Act 1971), must be by notice of motion (Form 44.01, Schedule C, modified as appropriate).

**2 Service of application**

2. (1) The original notice of motion must be filed with the Clerk and a copy of the notice of motion must be served on the other party to the proceeding in accordance with the provisions of Order 41 at least seven days before the return date.

(2) When the copy of the notice of motion has been served, a statutory declaration of service must be lodged with the Clerk at least four days before the return date.

**ORDER 45D****ADMISSIONS****1 Admission of documents**

1. (1) Any party may, by written notice (Form 45D.01, Schedule C), call on any other party to admit the authenticity of any document. An admission may be in the Form 45D.02, Schedule C.

(2) Where a party refuses or neglects to admit a document, after written notice to admit has been served, the costs of proving the document must be paid by the party who has neglected or refused to admit, regardless of the result, unless at the trial or hearing the Court certifies that the refusal to admit was reasonable.

(3) No costs of proving a document may be allowed unless:

(a) the party seeking to prove the document served notice to admit; or

(b) the Court certifies that the omission to serve notice to admit was a saving of expense.

**2 Admission of facts**

2. (1) Any party may, by written notice (Form 45D.03, Schedule C), at any time not later than ten days before the date fixed for the trial, call on any other party to admit, for the purposes of the trial only, any specific fact mentioned in the notice. An admission may be in the Form 45D.04, Schedule C.

(2) Where a party refuses or neglects to admit a fact within seven days after written notice to admit has been served, or within such further time as is allowed by the Court, the costs of proving the fact must be paid by the party who has neglected or refused to admit, regardless of the result, unless at the trial or hearing the Court certifies that the refusal to admit was reasonable, or unless the Court at any time otherwise orders or directs.

(3) Any admission made in response to a notice under this rule must be taken to be made only for the purposes of the particular civil proceedings, and not as an admission that may be used against the party on any other occasion or in favour of any person other than the party giving the notice.

(4) The Court may at any time allow any party to amend or withdraw any admission made under this rule on such terms as the Court considers just.

(5) Unless the Court orders otherwise, all costs and expenses as in the opinion of the Court have been caused by the failure of a party to serve a notice to admit documents or a notice to admit facts must, regardless of the result, be paid by the party who failed to serve the notice.

**3 Admissions in writing**

3. Any admission, if not made during the hearing, must be in writing, and must be signed by the party making the admission, or by his solicitor.

**ORDER 45E**  
**AMENDMENT**

**1 Court's power to permit amendment**

1. (1) The Court may, at any stage of civil proceedings:
  - (a) permit any party to alter or amend his or her statement of claim or pleading in the manner and on the terms the Court considers just;
  - (b) disallow any amendment already made; or
  - (c) amend any defect or error in any proceeding.
- (2) All amendments must be permitted as are necessary for the purpose of determining the real questions in controversy between the parties.

**2 Manner of amendment**

2. (1) A pleading or other document may be amended by written alterations in the copy which has been served, and in the copy which has been filed. Where necessary, extensive amendments may be set out on additional sheets of paper to be inserted into the pleading at a place indicated in the pleading.
- (2) When an amendment has been made, the amended document must be indorsed as follows: "Amended on the ..... day of ..... 20.... pursuant to Order dated the ..... day of ..... 20....".
- (3) All amendments must be underlined so as to distinguish the amendments from the original text.

**3 Clerical errors**

3. The Court may correct any clerical mistake in a judgment or order, or any error arising in a judgment or order from any accidental slip or omission, at any time on the application by notice of motion of the party seeking the correction on notice to the party sought to be affected by the correction.

**ORDER 46****ATTENDANCE OF WITNESSES AND PRODUCTION OF DOCUMENTS****1 — ATTENDANCE OF WITNESSES****1 Application to Clerk to issue witness summons**

1. Any party desiring the attendance of a person (in this Order, a “witness”) to give evidence or produce any books, papers or documents to the Court, or to an officer of the Court, in any civil proceedings must apply for, and the Clerk may issue, a witness summons (Form 46.01, Schedule C) requiring the witness to whom the summons is directed to comply with the requirements of the witness summons at the time and place stated in the witness summons.

**2 Application to Court to issue witness summons**

2. (1) An application for the issue of a witness summons requiring an officer of the State to attend and produce any books, papers or documents to the Court (witness summons *duces tecum*) may not be issued except by order of the Court on an application *ex parte*.

(2) In any case of difficulty as regards the issue of any other witness summons, the party seeking the attendance of a witness may apply *ex parte* to the Court for the issue of a witness summons.

(3) On an application under sub-rule (1) or sub-rule (2), the Court may direct the issue of a witness summons, with or without conditions as it considers appropriate, or may make such other order as it considers just.

**3 Service of witness summons**

3. (1) A witness summons must be served personally or by registered post on the witness named in the witness summons, unless the Court orders otherwise.

(2) If it appears to the Court that a witness served with a witness summons was not given reasonable time to enable him or her to appear as directed in the witness summons, or that his or her reasonable expenses of attending have not been paid or offered to him or her, the Court may set aside or disregard service of the witness summons.

**4 Persons named in witness summons**

4. (1) A witness summons requiring a witness to attend to give evidence only (witness summons *ad testificandum*) may be directed to and served on more than one person.



(2) A witness summons requiring a witness to attend and produce any books, papers or documents to the Court, or to an officer of the Court (witness summons *duces tecum*) may be directed to only one person, except in the case of partners, where all the members of the firm may be addressed in the witness summons in which event the attendance of any one of the members of the firm to produce the document or thing must be taken to be sufficient compliance with the witness summons unless the Court thereafter directs a specific member of the firm to so attend.

### **5 Officer of the Court may require expenses**

5. If any officer of the Court is required by a witness summons to attend with any record or document at any sitting or place outside the Court district in which he or she is serving, the officer may require that the party requiring his or her attendance (or that party's solicitor) must:

- (a) deposit with the officer a sufficient sum of money to answer his or her reasonable charges and expenses in respect of attendance, and
- (b) undertake to pay any further reasonable charges and expenses which may not be fully met by the deposit.

### **6 Consequences of failure to comply with a witness summons**

6. If a witness who has been duly summoned:

- (a) fails without lawful excuse to attend or to give evidence or to produce the books, papers or documents according to the witness summons; or
- (b) unless duly excused, fails to remain in attendance throughout the hearing,

the Court, if satisfied that the witness has been duly summoned and that his or her reasonable expenses have been tendered, may impose a fine on the witness for his or her default, or may make such other order as is just in the circumstances.

### **7 Remittal on cause shown**

7. The Court may, on cause shown, remit the whole or any part of any fine or imprisonment imposed under rule 6, or may order that the amount of any fine imposed, or any part of any fine imposed, be paid to a party in respect of the costs and expenses of any adjournment made necessary by the default of the witness.

## 2 — EVIDENCE BY VIDEOCONFERENCE

### 8 Application for use of live television link

8. An application for a direction that a party may participate in a hearing in the proceedings, or that a witness give evidence in any such hearing, from a location other than the Court itself, by means of a live television link in accordance with section 26 of the Civil Law (Miscellaneous Provisions) Act 2008:

- (a) may be made by motion on notice to the other party or parties;
- (b) may be heard and decided without the prior issue of a notice of motion by the Court on any occasion when the Court is considering case management directions.

**ORDER 47****JUDGMENT IN DEFAULT IN DEBT CLAIMS****1 Claimant may apply for judgment in default of appearance or defence**

1. If a respondent who has been served with a claim notice in a debt claim does not serve and file an appearance or serve a defence within the time prescribed by Order 42, or within any other time fixed by the Court for serving and filing his or her appearance or for serving his or her defence, the claimant may apply for an order of judgment in default.

**2 Application to be filed with Clerk**

2. (1) An application under rule 1 must be filed with the Clerk and must be accompanied—

- (i) by an affidavit or statutory declaration (Form 41.01, 41.02 or 41.03, Schedule C, as appropriate) of service of the claim notice; and
- (ii) by a certificate (Form 47.01, Schedule C), which may be endorsed on the affidavit of debt signed by the claimant's solicitor or by the claimant (if acting in person) that no appearance, notice requiring particulars or defence has been received from the respondent; and
- (iii) by an affidavit of debt verifying the claimant's claim (Form 47.02 or 47.03, Schedule C, as appropriate); and
- (iv) by a form of judgment (decree) (Form 47.04 or 47.05, Schedule C, as appropriate).

(2) Where an application under rule 1 is by a Minister of a Government Department or the Commissioners of Public Works or another body or person entitled by statute to verify a claim for a sum due by a certificate under seal which is by statute made evidence of the matters certified instead of by affidavit, the applicant may file such a certificate instead of an affidavit verifying the claim.

(3) Where a respondent has executed a consent to judgment which has been duly witnessed, the applicant may file an affidavit (Form 47.06, Schedule C) verifying the consent instead of an affidavit of debt; and where the consent is to judgment by instalments, the form of judgment (decree) in Form 47.07, Schedule C must be used.

(4) The affidavit verifying the claimant's claim must be sworn (or the certificate specified in sub-rule (2) must be given) within one month before the date of the application for judgment. Judgment may not be given where the affidavit verifying the claimant's claim was not sworn (or the certificate

specified in sub-rule (2) was not given) within one month before the date of the application for judgment.

(5) Where the application for judgment includes a claim in respect of value-added tax, the affidavit (or certificate) must verify whether or not value-added tax is payable by the claimant on his or her legal costs, and if payable whether or not the sum payable is recoverable by the claimant from the Revenue Commissioners.

### **3 Additional requirements where the claim notice was served outside the State**

3. (1) Where the claim notice (or notice of the issue of the claim notice) was sent abroad for service under the provisions of the Service Regulation and the respondent has not served or filed an appearance and defence or given notice of his or her intention to defend, judgment in default may not be given until the Court is satisfied that the provisions of Article 19 of the Service Regulation have been complied with, and the provisions of Order 41A or, as appropriate, Order 41B apply to any such application.

(2) Where the claim notice (or notice of the issue of the claim notice) was sent abroad for service under the provisions of the Hague Convention and the respondent has not served or filed an appearance and defence or given notice of his or her intention to defend, judgment in default of appearance may not be given until the Court is satisfied that the provisions of Article 15 of the Hague Convention have been complied with.

(3) Evidence of compliance with the provisions of Article 19 of the Service Regulation or the provisions of Article 15 of the Hague Convention may be given by affidavit.

### **4 A Judge may issue a default judgment or refer to the Court**

4. (1) If an application has been made to which rule 2(1) applies and a Judge is satisfied that an order should be made, the Judge may make such an order otherwise than at a sitting of the Court, and may fix the amount of costs and interest as is appropriate in the circumstances in accordance with the Schedule of Costs.

(2) If an application has been made to which rule 2(1) applies and a Judge is not satisfied that an order should be made, the Judge may, or if the claimant so requests, the Judge must, refer the matter to the Court for decision.

(3) An application to which rule 3 applies must be assigned a return date for hearing before the Court.

(4) If the Judge refers an application to the Court or an application is assigned a return date, the Court may on hearing the application, and any evidence the Court considers appropriate—

- (a) make the order sought in the application;
- (b) direct that a further affidavit or affidavits be filed;
- (c) give directions as to the application;
- (d) refuse to make the order sought in the application;
- (e) make any other order it considers appropriate.

(5) If the Court, under sub-rule (4)(b), directs a further affidavit or affidavits to be filed, the Court may make a peremptory order which is effective on the filing of such affidavit or affidavits, without the application being heard again before the Court.

(6) The Clerk must notify the claimant of any order made by the Judge or (if the application has been referred to the Court) any decision or order of the Court.

### **5 Proceeding continued against other respondents**

5. A claimant who obtains an order for judgment in default against a respondent in accordance with this Order may enforce the order and continue the proceeding against any other respondent. In the event that the claimant recovers by enforcement or otherwise the full amount of his claim including costs against any respondent, further proceedings against any remaining respondent must be stayed save in respect of any further costs as may be claimed against any other respondent.

### **6 Default of appearance and defence to counterclaim**

6. If a respondent serves a counterclaim which is a debt claim, rule 1 applies as if—

- (a) the respondent were the claimant;
- (b) a reference to the appearance in that rule were a reference to the appearance to the counterclaim; and
- (c) the claimant were the respondent.

### **7 Setting aside judgment by default**

7. (1) A party against whom a judgment in default has been obtained under this Order may apply by notice of motion (Form 44.02 Schedule C with the necessary modifications) to the Court in the Court area in which the judgment was obtained for an order to vary or set aside the judgment on the ground that the same was obtained by fraud, misrepresentation, surprise, mistake or other sufficient ground.

(2) Service of the notice of motion does not operate as a stay of proceedings unless the respondent lodges with the Clerk the amount for which judgment was given and the amount fixed for costs.

### **8 Default of compliance**

8. If a party fails to comply with an order made by the Court in civil proceedings, the Court may, where it considers it just to do so, dismiss the civil proceedings or strike out any defence or counterclaim and proceed to give judgment or make any order (including any order for costs) as is then appropriate as if the party in default had not pleaded.

**ORDER 47A****JUDGMENT IN DEFAULT IN NON-DEBT CLAIMS****1 Claimant may apply for judgment in default of appearance and defence**

1. If a respondent who has been served with a claim notice in a claim other than a debt claim does not serve and file an appearance or serve a defence within the time prescribed by Order 42, or within any other time fixed by the Court for serving and filing his or her appearance or for serving his or her defence, the claimant may apply for an order of judgment in default.

**2 Application by motion on notice**

2. (1) In any case in which this Order applies, the claimant may, subject to the provisions of this rule, at any time after the respondent's default in serving and filing an appearance or serving a defence, by motion on notice to the respondent served on the respondent not less than four clear days before the return date of the motion, apply to the Court for judgment.

(2) Before issuing and serving a notice of motion for judgment under sub-rule (1), the claimant must at least 14 days before issuing the notice of motion write to the respondent giving the respondent notice of the claimant's intention to serve a notice of motion for judgment and at the same time consenting to the late service of an appearance and defence within 14 days from the date of that letter.

(3) If an appearance and defence is not served within 14 days from the date of that letter, the claimant may issue (by filing with the Clerk to obtain a return date) and serve a notice of motion for judgment in default which must be returnable to a return date not less than 14 days from the date of the service of the notice of motion.

(4) An application under this rule must be supported—

- (i) by an affidavit or statutory declaration (Form 41.01, 41.02 or 41.03, Schedule C, as appropriate) of service of the claim notice; and
- (ii) by a certificate (Form 47.01, Schedule C), which may be endorsed on the verifying affidavit signed by the claimant's solicitor or by the claimant (if acting in person) that no appearance, notice requiring particulars or defence has been received from the respondent; and
- (iii) by an affidavit verifying the claim notice (provided that in a personal injuries action, a further affidavit is not required if the personal injuries summons has previously been verified); and

(iv) by a form of judgment (decree) (Form 49.03, Schedule C, with any necessary modifications).

(5) A copy of the affidavit verifying the claim notice must (unless previously served) be served on the respondent with the notice of motion. The remaining documents mentioned in sub-rule (4) must be produced on the hearing of the motion but, where permitted by the Court, the form of judgment (decree) may be filed with the Clerk subsequently.

(6) If the claimant can establish special reasons making it necessary to serve a notice of motion for judgment under this rule with greater urgency than in accordance with the notice periods provided, he or she may apply *ex parte* to the Court for an order giving the claimant permission to serve a notice of motion for judgment in default giving not less than four clear days' notice to the respondent, or in the alternative the Court may deem good the service of a notice of motion actually served giving not less than four clear days' notice to the respondent.

### **3 Motion struck out with costs if defence filed not less than 6 days before return date**

3. If, after the service of a notice of motion for judgment, the respondent delivers a defence to the claimant and not less than six days before the return date files a copy of the defence with the Clerk, with a certified copy of the notice of motion attached, the motion for judgment will stand struck out and the respondent will be liable to pay to the claimant the costs of the motion for judgment in accordance with the Schedule of Costs.

### **4 Affidavit verifying claim**

4. (1) The affidavit verifying the claimant's claim must be sworn within one month before the date of the application for judgment.

(2) Sub-rule (1) does not apply where the claimant relies on an affidavit of verification of a personal injuries summons made more than one month before the date of the application.

(3) Where the application for judgment includes a claim in respect of value-added tax, the affidavit (or certificate) must verify whether or not value-added tax is payable by the claimant on his or her legal costs, and if payable whether or not the sum payable is recoverable by the claimant from the Revenue Commissioners.

### **5 Additional requirements where the claim notice was served outside the State**

5. (1) Where the claim notice (or notice of the issue of the claim notice) was sent abroad for service under the provisions of the Service Regulation and the respondent has not served or filed an appearance and defence or given notice of his or her intention to defend, judgment in default may not be given until the Court is satisfied that the provisions of Article 19 of the



Service Regulation have been complied with, and the provisions of Order 41A or, as appropriate, Order 41B apply to any such application.

(2) Where the claim notice (or notice of the issue of the claim notice) was sent abroad for service under the provisions of the Hague Convention and the respondent has not served or filed an appearance and defence or given notice of his or her intention to defend, judgment in default of appearance may not be given until the Court is satisfied that the provisions of Article 15 of the Hague Convention have been complied with.

(3) Evidence of compliance with the provisions of Article 19 of the Service Regulation or the provisions of Article 15 of the Hague Convention may be given by affidavit and may be included in the affidavit verifying the claim notice.

## **6 Return date**

6. (1) All applications by motion for judgment under this Order must be assigned a return date for hearing before the Court.

(2) The Court may on hearing the application, and any evidence the Court considers appropriate—

- (a) give judgment on the claimant's claim contained in the claim notice in such amount as the Court is satisfied is just;
- (b) give permission to the respondent to defend the whole or part of the claim on such terms as the Court considers just;
- (c) direct that a further affidavit or affidavits be filed, or adjourn the application for the hearing of further evidence;
- (d) refuse to make the order sought in the application;
- (e) make any other order it considers appropriate.

(3) If the Court, under sub-rule (2)(c), directs a further affidavit or affidavits to be filed, the Court may make a peremptory order which is effective on the filing of such affidavit or affidavits, without the application being heard again before the Court.

(4) The Clerk must notify the claimant of any order made by the Judge or (if the application has been referred to the Court) any decision or order of the Court.

(5) On the hearing of an application for judgment under this Order, the Court may make an Order for costs in accordance with the Schedule of Costs.

**7 Proceeding continued against other respondents**

7. A claimant who obtains an order for judgment in default against a respondent in accordance with this Order may enforce the order and continue the proceeding against any other respondent. In the event that the claimant recovers by enforcement or otherwise the full amount of his claim including costs against any respondent further proceedings against any remaining respondent must be stayed save in respect of any further costs as may be claimed against any other respondent.

**8 Default of appearance and defence to counterclaim**

8. If a respondent serves a counterclaim, rules 1 to 6 apply as if—

- (a) the respondent were the claimant;
- (b) a reference to the appearance in those rules were a reference to the appearance to the counterclaim; and
- (c) the claimant were the respondent.

**9 Setting aside judgment by default**

9. (1) A party against whom a judgment in default has been obtained under this Order may apply by notice of motion (Form 44.02 Schedule C with the necessary modifications) to the Court in the Court area in which the judgment was obtained for an order to vary or set aside the judgment on the ground that the same was obtained by fraud, misrepresentation, surprise, mistake or other sufficient ground.

(2) Service of the notice of motion does not operate as a stay of proceedings unless the respondent lodges with the Clerk the amount for which judgment was given and the amount fixed for costs.

**10 Default of compliance**

10. If a party fails to comply with an order made by the Court in civil proceedings, the Court may, where it considers it just to do so, dismiss the civil proceedings or strike out any defence or counterclaim and proceed to give judgment or make any order (including any order for costs) as is then appropriate as if the party in default had not pleaded.

**ORDER 47B****DISCONTINUANCE AND WITHDRAWAL****1 Discontinuance or withdrawal of claim or part of claim**

1. (1) The claimant may:
  - (a) before receipt of the respondent's appearance and defence or defence; or
  - (b) after receipt of the respondent's appearance and defence or defence, but before taking any other step in the proceedings (except any interlocutory application),
    - (i) wholly discontinue his claim against all or any of the respondents by written notice (Form 47B.01, Schedule C) served on each respondent and filed with the Clerk; or
    - (ii) withdraw any part or parts of his alleged cause of action by written notice (Form 47B.01, Schedule C) served on each respondent and filed with the Clerk.

(2) Where a claimant serves a notice under sub-rule (1), the claimant must pay the respondent's costs of the proceedings or, if the claim is not wholly discontinued, the costs occasioned by the part of the alleged cause of action withdrawn.

(3) Sub-rule (2) does not apply to small claims.

(4) If not agreed, the applicable scale or amount of costs may be determined by the Court.

(5) Discontinuance or withdrawal under sub-rule (1) is not a defence to any subsequent claim.

(6) Save as provided in this Order, a claimant may not withdraw or discontinue a claim without the permission of the Court.

(7) The Court may at the hearing or trial, on the claimant's application, order or permit the claim to be discontinued, or any part of the alleged cause of action to be struck out, on such terms as to costs, and as to any other action and otherwise as the Court considers just.

**2 Withdrawal of defence**

2. (1) The Court may at the hearing or trial, on the respondent's application, order or permit all or any part of the respondent's grounds of defence to be struck out, on such terms as to costs, and as to any other action and otherwise as the Court considers just.

(2) A party who has filed an appearance and defence in a proceeding may not withdraw the defence or any part of it without the permission of the Court in accordance with sub-rule (1).

### **3 Withdrawal of claim on consent**

3. (1) When a claim which is the subject of any claim notice has been settled or compromised by the parties, and does not require to proceed before the Court, the parties must produce to the Clerk a written consent signed by both parties (or their solicitors) confirming that the claim is not proceeding.

(2) Sub-rule (1) applies whether or not the claim notice has been assigned a trial date.

### **4 Judgment for costs of discontinuance**

4. A respondent is entitled to judgment for the costs of any proceedings which are wholly discontinued against him or her, or for the costs occasioned by the matter withdrawn, if the action be not wholly discontinued, if the costs concerned are not paid within four days after their amount is agreed or fixed by the Court.

### **5 Stay of subsequent claim**

5. If any subsequent claim is brought before payment of the costs of a discontinued claim, for the same or substantially the same cause of action, the Court may order a stay of the subsequent claim until the costs of the discontinued claim have been paid.

### **6 Costs**

6. If the amount of costs referred to in this Order is not specified in the Schedule of Costs or is not agreed by the parties, the Court may, on the application of the claimant or respondent, as the case may be, determine the scale of costs to apply, and if there is no such appropriate scale the Court may determine the amount of such costs.

### **7 Small claims—discontinuance or withdrawal of proceeding or claim**

7. Despite rule 1, a claimant may discontinue a small claim proceeding or withdraw any part of a small claim at any time before the small claim proceeding has been referred to the Court without the permission of the Court or the consent of the other parties.

**ORDER 48****AUTHENTICATION AND FILING OF DOCUMENTS****1 Filing of documents**

1. Except where otherwise provided by these Rules or unless the Court otherwise orders, a document is filed by the document being lodged with the Clerk assigned to the Court area in which the claim must be brought or the application made.

**2 Validity of claim notice, counterclaim or third party notice**

2. A claim notice, counterclaim or third party notice is valid for all purposes if it has, where necessary, been stamped to record payment of any applicable court fee, and bears the allocated Court number and the date of filing.

**3 Authentication of documents in civil proceedings**

3. (1) The signature of the Clerk for the time being assigned to the Court area in which the civil proceedings were brought is sufficient—

(a) to authenticate any order or document issued by the Court in civil proceedings other than an order which requires to bear the signature of the Judge; or

(b) to certify as a copy—

(i) any copy of a document issued by the Court in civil proceedings; or

(ii) any copy of a document filed in civil proceedings or sent to the Court by a party or other person.

(2) A certified copy of a document mentioned in sub-rule (1) may be provided on payment of any applicable charges to:

(a) a party or party's solicitor;

(b) another person on the direction of the Court.

**4 Orders signed by Judge**

4. Any order or warrant for attachment or committal must be signed by a Judge.

**5 Issue of duplicates**

5. (1) Where it appears to the Court that an original judgment, order or warrant in civil proceedings has been lost or destroyed or is unavailable to

the parties, or to the party entitled to it, the Court may issue a duplicate of the judgment, order or warrant.

(2) An application for a duplicate must be made on 48 hours' notice to the opposite party and to the Clerk.

(3) Where the Court permits the issue of a duplicate judgment, order or warrant, as the case may be, the word "Duplicate" must be clearly written or stamped on the face of the duplicate document.

**ORDER 49****HEARING OF CIVIL PROCEEDINGS****1 — EVIDENCE****1 Oral evidence**

1. (1) Unless otherwise agreed in writing by all of the parties to the proceeding, and subject to these Rules and the law of evidence, witnesses at the trial of any claim must be examined orally on oath in open Court.

(2) Despite sub-rule (1), the Court may at any time for such reasons as it thinks right order that a particular fact may be proved by affidavit, or that the affidavit of a witness may be read at the hearing or trial on such conditions as the Court thinks reasonable.

(3) An order may not be made authorising the evidence of a witness to be given by affidavit where it appears to the Court that another party *bona fide* requires the production of the witness for cross-examination, and that the witness can be produced.

**2 Documentary evidence**

2. (1) Documents put in evidence must be marked by an officer of the Court.

(2) Nothing in sub-rule (1) requires or authorises any marking on an original will which has not been admitted to probate.

(3) Subject to any direction of the Court, the party who tendered any document in evidence is entitled to the return of that document.

**3 Deposition evidence**

3. In any case where it appears necessary in the interests of justice, a Court may order that a witness or other person be examined on oath and the order may permit a party to the proceedings to give the examination or deposition in evidence in the proceedings on such terms, if any, as the Court directs.

**2 — SETTING DOWN FOR TRIAL****4 Notice of trial**

4. (1) When an appearance and defence have been served and filed, the claimant may serve notice of trial (Form 49.01, Schedule C).

(2) Not less than ten days' notice of trial must be given to the respondent and all other necessary parties, save that the parties may agree that a shorter notice period must apply.

(3) Notice of trial must be filed with the Clerk promptly following service, and a separate copy of the notice must be filed for each additional party.

(4) Unless otherwise requested by the party giving notice of trial, or otherwise directed by the Court, notice of trial operates to set the claim (including any counterclaim) down for hearing at the next available time following the expiry of the period mentioned in the notice of trial as is assigned by the Clerk.

(5) Unless the Court directs the Clerk otherwise, the next available time is at the next available sitting of the Court for civil business for the Court area in which the claim must be heard, at such time at which the claim comes on in its order in the list.

(6) In any case in which the parties are agreed that the claim (and any counterclaim) is ready for hearing, the notice of trial may include any request agreed between the parties for the hearing to be specially fixed (and any reasons for such request), provided that the notice of trial is accompanied by a letter from the opposing party consenting to the request.

(7) The Clerk may set down a claim (including any counterclaim) to which sub-rule (6) applies for hearing in accordance with any request, or may request the Court to give a direction in accordance with such request.

(8) The Clerk must notify the party who has served notice of trial of the time and place at which the trial is listed, and may do so by returning to that party a copy of the notice of trial with those details inserted. The party who has served notice of trial must promptly notify all other parties of the time and place at which the trial is listed.

(9) No notice of motion seeking discovery or further particulars may be issued by any party later than 14 days after notice of trial has been served.

### **5 Service of notice of trial by respondent**

5. Where the claimant fails to serve notice of trial within ten days after the delivery of the respondent's defence, the respondent may do so and may file the notice of trial in accordance with rule 4.

### **6 Application to dismiss**

6. (1) If the claimant fails to serve notice of trial within ten days after the delivery of the respondent's defence, the respondent may, instead of serving notice of trial in accordance with rule 5, apply to the Court by notice of motion to dismiss the claim for want of prosecution.

(2) On the hearing of an application under sub-rule (1), the Court may order the claim to be dismissed, and/or may make such other order, on such terms, as he or she considers just.



## 7 Papers for Court

7. (1) The party serving notice of trial must, at the same time as filing the notice of trial, file with the Clerk, for use by the Judge:

- (a) a set of copies of the pleadings, including particulars, and any affidavits in the case, in chronological sequence;
- (b) a set of copies of any correspondence relied on by either party, in chronological sequence;
- (c) copies of any other documents directed to be filed, and
- (d) where so directed for the time being by:
  - (i) the President of the District Court in respect of civil proceedings in the Dublin Metropolitan District, or in respect of particular categories of civil proceedings including the proceedings concerned, in the Court generally or
  - (ii) by a Judge permanently assigned to the Court district in which the civil proceedings were brought in respect of civil proceedings, or in respect of particular categories of civil proceedings including the proceedings concerned, in that Court district,

a completed case management questionnaire (Form 49.02, Schedule C).

(2) Sub-rule (1) does not limit the ability of any party to rely on any document at the hearing.

## 3 — TRIAL

### 8 Hearing of claims together

8. The Court, if it considers it desirable, may order that two or more claims be tried together, on such terms as to costs as it considers just.

### 9 Hearing of counterclaim

9. (1) A counterclaim may be proceeded with separately.

(2) If a counterclaim is proceeded with separately, it must be treated as a claim, irrespective of whether the original claim in which the counterclaim was made is withdrawn, stayed, discontinued or dismissed.

### 10 Directions to witnesses

10. A witness who is not a party may be ordered by the Court:

- (a) to leave the Court until his evidence is required; or

(b) to leave the Court after his or her evidence has been given; or

(c) to remain in Court after his evidence has been given,

until the trial is terminated or adjourned.

### **11 Judgment**

11. Judgment (which may be recorded in one of the Forms 49.03 to 49.08, Schedule C, as appropriate, with such modifications as are necessary) may be given for one or more claimants, and against or in favour of one or more respondents (which may be recorded in Form 49.09, Schedule C, as appropriate, with such modifications as are necessary).

### **12 Adjournment**

12. (1) The Judge may, if he or she thinks it expedient in the interests of justice, postpone or adjourn a trial for such time, and on such terms, if any, as he or she thinks just.

(2) Sub-rule (1) does not limit any other power of the Court to adjourn.

### **13 Non-appearance at trial**

13. (1) If, when a case is called in Court, the claimant appears, and the respondent does not appear, the claimant may prove his or her claim so far as the burden of proof lies on him or her.

(2) If, when a case is called in Court, the respondent appears, and the claimant does not appear, the respondent, if he or she has no counterclaim, is entitled to judgment dismissing the claim, but if he or she has a counterclaim, then he or she may prove the counterclaim so far as the burden of proof lies on him or her.

### **14 Ancillary orders as to payment**

14. (1) When the Court has pronounced a judgment or made an order (or at any later time on notice being given to the opposite party), the Court may order the time or times when, and by what instalments, the debt or damages and costs of the judgment, or the amount stated in the order and the costs must be paid.

(2) If an order for instalments is made on pronouncing a judgment or making an order, no order for execution may issue against the respondent until after default of payment or default of some instalment according to the order.

(3) The Court may stay execution on foot of any judgment or order for such period and on such terms as the Court considers just.

### **15 Jurisdiction to give judgment or dismiss on the merits or without prejudice**

15. The Court has full jurisdiction in all cases to give judgment on the claim, or to dismiss the claim either on the merits or without prejudice to the claimant's right to proceed by a new claim notice.

### **16 Where a dismiss without prejudice is produced**

16. If, when a case is called in Court, the respondent produces an order of the Court dismissing the same cause of action by the claimant against the respondent without prejudice, the claimant may not proceed with the case until the claimant has paid to the respondent the amount of costs due on foot of that order.

### **17 Cross judgments may be set off**

17. (1) If:

- (a) the Court makes cross judgments between the same parties; or
- (b) there are at the same time unexecuted or only partially executed judgments of the Court between the same parties,

the Court may, on the application of either party, order that the judgments be set off against each other.

(2) If judgments ordered to be set off against each other are of unequal amounts, the Court may order that a judgment issue only on which the larger sum due, and that the judgment be issued or executed only for the sum which remains due after deducting the sum due on the other judgment.

### **18 Judgment by consent**

18. (1) A respondent who is not represented by a solicitor or counsel, may consent to a judgment being ordered against him or her.

(2) A respondent who consents to a judgment must sign a consent, which must be proved either in open Court or by an affidavit verifying the execution of the consent.

(3) The Court may give judgment in accordance with the terms of the consent.

### **19 Order for recovery of rates and execution against goods in default of payment**

19. (1) Where the Court makes an order for the recovery of rates, the Court may direct that the sum be paid either at once or by instalments.

(2) In an order to which sub-rule (1) applies, the Court may order that, in default of the sum being paid at the time and in the manner directed, the

amount not paid be levied by distress and sale of the goods of the respondent against whom the order was made and by taking the money of the respondent against whom the order was made.

## **20 Interest**

20. (1) A judgment for the recovery of a sum of money which (exclusive of costs and witnesses' expenses) exceeds €190.46, carries interest on the sum at the rate per annum specified for the time being in section 26 of the Debtors (Ireland) Act 1840, until it is satisfied.

(2) Interest must be calculated from the date of the judgment unless the Court otherwise directs.

(3) A judgment for the recovery of a sum of money for an amount not exceeding €190.46 does not carry interest.

**ORDER 49A****CASE MANAGEMENT****1 Case management directions**

1. (1) The Court may, at any time and from time to time, of its own motion and having heard the parties, give such directions and make such orders, including the fixing of time limits, for the conduct of civil proceedings, as appears convenient for the determination of the proceedings in a manner which is just, expeditious and likely to minimise the cost of those proceedings.

(2) Except where these Rules provide otherwise, the Court may:

- (a) ensure that the issues, whether as to fact or law, are defined as clearly, as precisely and as concisely, as possible;
- (b) give case management directions as to the steps which remain to be taken to prepare the case for trial, and the timetable for the completion of preparations of the case for trial, and for that purpose may adopt any timetable proposed by the parties if satisfied that it is reasonable;
- (c) make orders or give directions with respect to pleadings, the exchange between the parties of statements of issues, the identifying of issues in dispute between the parties, particulars, discovery, inspection of documents, or otherwise, which may be necessary or expedient;
- (d) make inquiries of the parties so as to ascertain the likely length of the trial and the arrangements, if any, for witnesses, information and communications technology (including video conferencing) and any other arrangements which require to be made for the trial;
- (e) fix the time and mode of trial, and may fix a date for trial and may also give directions as to the service of a notice of trial;
- (f) make any orders and give any directions in respect of arrangements for the trial as the Court considers necessary;
- (g) direct any expert witnesses to consult with each other within such time as the Court specifies for the purposes of—
  - (i) identifying the issues in respect of which they intend to give evidence,
  - (ii) where possible, reaching agreement on the evidence that they intend to give in respect of those issues, and

- (iii) considering any matter which the Court may direct them to consider,

and require that such witnesses record in a memorandum to be jointly submitted by them to the Clerk and delivered by them to the parties, particulars of the outcome of their consultations, within such time as the Court specifies, provided that any such outcome must not be in any way binding on the parties.

(3) The Court may adjourn the consideration of case management directions from time to time and from place to place as may be appropriate to enable any order made or direction given to be complied with or any act to be done or step to be taken.

## **2 Adjournment to facilitate ADR**

2. The Court when considering case management directions, may on the application of any of the parties or of its own motion, exercise its powers in accordance with Order 49B to invite the parties to use an ADR process to settle or determine the proceedings or issue and to make consequent orders.

## **3 Case management records**

3. (1) The Clerk must maintain a record, which may be in electronic form, of all case management directions given.

(2) A copy of the case management directions must be placed on the Court file and a further copy of the case management directions must be made available to a party to the civil proceedings at the party's request.

## **4 Attendance**

4. (1) In any case where the Court adjourns the civil proceedings to a hearing for the purpose of considering case management directions (in this rule, a "case management hearing"), the solicitors appearing for each of the parties or, where a party is not represented by a solicitor, the party himself or herself, must attend the case management hearing and any adjournment thereof.

(2) Where the Court considers it necessary or desirable, it may direct that a party attend a case management hearing notwithstanding the fact that the party may be represented by a solicitor.

(3) Each representative of a party attending a case management hearing must ensure that he or she is sufficiently familiar with the civil proceedings and has authority from the party he or she represents to deal with any matters that are likely to be dealt with.

(4) Where a party is represented by counsel such counsel may attend a case management hearing, but the fees of counsel for either party for

attending a case management hearing will be allowed in the measurement of costs only where the Court so certifies.

**5 Judge taking case management hearing may decline to hear trial**

5. A Judge before whom a case management hearing has been conducted may determine that the trial of the civil proceeding should be before another Judge.

**ORDER 49B****MEDIATION AND CONCILIATION****1 Definitions**

1. In this Order:

an “ADR process” means mediation, conciliation or another dispute resolution process approved by the Court, but does not include arbitration.

**2 Adjournment to facilitate ADR process**

2. (1) The Court, on the application of any of the parties or of its own motion, may, when it considers it appropriate and having regard to all the circumstances of the case, order that proceedings or any issue therein be adjourned for such time as the Court considers just and convenient and—

- (i) invite the parties to use an ADR process to settle or determine the proceedings or issue, or
- (ii) where the parties consent, refer the proceedings or issue to such process,

and may, for the purposes of such invitation or reference, invite the parties to attend such information session on the use of mediation, if any, as the Court may specify.

(2) Where the parties decide to use an ADR process, the Court may make an order extending the time for compliance by any party with any provision of these Rules or any order of the Court in the proceedings, and may make such further or other orders or give such directions as the Court considers will facilitate the effective use of that process.

**3 Application for adjournment to facilitate ADR process**

3. An application by a party for an order under rule 2 may be made by motion to the Court on notice to the opposing party or parties, or may be made without such motion at any other time when the proceedings are before the Court, including at a case management hearing.

**4 Orders by consent**

4. If all the parties to a proceeding (including any third parties) agree at an ADR process on the terms of an order to be made, including an order for the final disposition of a proceeding, the Court may make the order.

**5 Extension of time limits**

5. Despite any other rules, if a proceeding is referred to an ADR process, the time for taking any step in a proceeding under any of those Rules must



be calculated as if time did not run during the period of any adjournment to facilitate the ADR process.

**ORDER 50****AFFIDAVITS IN CIVIL PROCEEDINGS****1 Definitions**

## 1. In this Order-

reference to an affidavit includes reference to any affidavit, solemn affirmation or the acknowledgment of any deed or recognizance for use in civil proceedings in the Court;

“deponent” means a person making an affidavit for use in civil proceedings in the Court, but includes reference to a person making a solemn affirmation or acknowledgment of a deed or recognizance for use in civil proceedings in the Court;

“relevant document” has the same meaning as in section 2 of the Statutory Declarations Act 1938.

**2 Making an affidavit**

2. (1) Subject to sub-rule (2), all affidavits for use in civil proceedings in the Court (which may be in the Form 50.01, Schedule C) must be made before a Commissioner empowered to administer oaths for the High Court, or a practising solicitor.

(2) Where the person making an affidavit resides outside the State, or is for the time being outside the State, the affidavit may be made before any person authorised by law to administer oaths in the place where the person making the affidavit resides or is.

**3 Form of affidavit**

3. All affidavits for use in civil proceedings in the Court must:

- (a) be written or printed book-wise;
- (b) be expressed in the first person of the deponent;
- (c) be drawn up in numbered paragraphs; and
- (d) include the title of the civil proceedings in which they are sworn.

**4 Particulars of deponent and other requirements**

4. All affidavits for use in civil proceedings in the Court must:

- (a) state the deponent's occupation and (unless the Court otherwise orders or permits) place of residence;

- (b) state that the deponent is over 18 years of age, but if the deponent is under 18 years of age, the affidavit must state the deponent's exact age;
- (c) be confined to such facts as the deponent is able to prove of his or her own knowledge;
- (d) state the deponent's means of knowledge of the facts sworn, except on interlocutory motions, on which a statement by the deponent as to his or her belief, and the grounds of his or her belief, may be admitted.

### **5 Affidavit may not be sworn before solicitor for party**

5. No affidavit may be used in civil proceedings in the Court if it was sworn before the solicitor acting for the party on whose behalf the affidavit is to be used, or before the partner, agent, correspondent or clerk of that solicitor, or before the party himself.

### **6 Attestation by person taking affidavit and jurat**

6. Every person taking an affidavit for use in civil proceedings in the Court:

- (a) must express the date on which and the place at which he or she takes the affidavit; otherwise the affidavit must be taken not to be authentic and must not be filed without the permission of the Court;
- (b) must certify in the jurat either:
  - (i) that he personally knows the deponent, or
  - (ii) that the deponent has been identified to him or her by some person personally known to him or her and named in the jurat who certifies his personal knowledge of the deponent, or
  - (iii) that the identity of the deponent has been established by him or her by reference to a relevant document containing a photograph of the deponent before the affidavit was taken,

and in a case to which paragraph (iii) applies, must give particulars of the relevant document concerned.

### **7 Additional requirements for affidavit by illiterate or blind person**

7. (1) When an affidavit for use in civil proceedings in the Court is sworn or made by a person who appears to the person taking the affidavit to be illiterate or blind, the person taking the affidavit must certify that:

- (a) the affidavit was read in his or her presence to the deponent;

- (b) that the deponent appeared to understand it, and
- (c) that the deponent made his or her signature or mark in the presence of the person taking the affidavit.

(2) No affidavit mentioned in sub-rule (1) may be used in evidence in the absence of the certificate mentioned in sub-rule (1) unless the Court is otherwise satisfied that the affidavit was read over to, and appeared to be understood by, the deponent.

### **8 Making an affidavit in a foreign language**

8. (1) Subject to rule 9, where an intending deponent is not capable of making an affidavit in one of the official languages of the State, he or she must make an affidavit in another language which he or she understands (in this rule and rule 9 referred to as a “foreign language affidavit”).

(2) A foreign language affidavit must be translated into one of the official languages of the State by a translator who is suitably qualified for the purpose.

(3) Where a foreign language affidavit is to be filed in Court, an affidavit of the translator must be filed at the same time in which:

- (i) the translator sets out his or her qualifications as a translator,
- (ii) a copy of the foreign language affidavit and the original translation referred to in sub-rule (2) are exhibited, and
- (iii) the translator confirms that the translation is accurate.

(4) The original translation referred to in sub-rule (2) must in addition be filed with the affidavit of the translator referred to in sub-rule (3).

### **9 Additional requirements for swearing and filing a foreign language affidavit**

9. (1) Where the deponent appears to the person taking an affidavit not to be capable of understanding one of the official languages of the State, the person taking the affidavit must:

- (a) ensure that the affidavit is made as a foreign language affidavit in accordance with rule 8; and
- (b) ensure that the affidavit is read to the deponent by a suitably qualified interpreter in the presence of the person taking the affidavit, and that the deponent has fully understood it; and
- (c) certify in the jurat that the affidavit was read in his or her presence to the deponent by a suitably qualified interpreter, that the deponent fully understood it and that the deponent signed the foreign language affidavit in his or her presence.

(2) Where a foreign language affidavit is to be filed in Court, in addition to the translator's affidavit referred to in rule 8(3) an affidavit of the interpreter must be filed at the same time in which the interpreter sets out his qualifications as an interpreter, exhibits a copy of the foreign language affidavit and confirms that he or she read accurately to the deponent the contents of the foreign language affidavit.

(3) Where the translator and interpreter are one and the same person, a single affidavit may be sworn by that person for the purposes of rule 8(3) and this rule.

(4) No foreign language affidavit may be used in evidence in the absence of the affidavit referred to in rule 8(3), unless the Court is otherwise satisfied as to the evidence contained in the foreign language affidavit.

### **10 Filing clause**

10. (1) There must be included in every affidavit a footnote showing:

- (a) on whose behalf it is filed, and
- (b) the person by whom it is filed and his address.

(2) No affidavit may be filed or used without the note mentioned in sub-rule (1) unless the Court otherwise directs.

### **11 Amendments**

11. An affidavit which has in either the body or the jurat any interlineation, alteration, or erasure, may not be filed, read, or made use of in any civil proceeding in the Court without the permission of the Court unless:

- (a) the interlineation or alteration (other than by erasure) is authenticated by the initials of the person taking the affidavit; or
- (b) in the case of an erasure, the words or figures appearing at the time of taking the affidavit and erased are re-written and signed or initialled in the margin of the affidavit by the person taking it.

### **12 Power of Court to receive defective affidavit**

12. The Court may receive any affidavit sworn for the purpose of being used in civil proceedings in the Court:

- (a) despite any defect by misdescription of the parties or otherwise in the title or in the jurat; or
- (b) despite any other irregularity in its form,

and where the Court does so, it may direct a memorandum to be made on the document that it has been so received.

**13 Filing of affidavits**

13. (1) Before an affidavit is used in civil proceedings in the Court, it must be filed with the Clerk.

(2) Sub-rule (1) does not prevent the Judge from making an order on the undertaking of the applicant or his solicitor to file any affidavit sworn before the making of the order, or permitted by the Judge to be made after the order, provided that the Judge may stay the issue of any order until the affidavit has been filed.

**14 Date of filing**

14. The Clerk must endorse on every affidavit which is filed for use in civil proceedings in the Court the date on which the affidavit was filed.

**15 Affidavit may not be used after limited time without permission**

15. Where a special time is limited for delivering or filing an affidavit, no affidavit delivered or filed after that time may be used without the permission of the Court.

**16 Exhibits**

16. (1) Documents identified by or referred to in an affidavit must not be annexed to the affidavit, but must be referred to in the affidavit as exhibits.

(2) Every certificate on an exhibit referred to in an affidavit signed by the person before whom the affidavit is sworn must be marked with the short title of the civil proceedings.

(3) Nothing in this rule requires or authorises any marking on an original will which has not been admitted to probate.

**17 Costs of affidavit**

17. The Court may order that a party must bear the costs of any affidavit which he or she has used which:

- (a) unnecessarily contains matters of hearsay, or
- (b) which contains argumentative matter, or
- (c) which is of unnecessary length,

regardless of the outcome of the hearing at which it is used.

**18 Court or party may require attendance of deponent**

18. (1) The Court may direct the deponent to any affidavit to attend at the trial or hearing at which the affidavit is to be used, where it considers the deponent's attendance necessary in the interests of justice.

(2) Unless the Court has ordered otherwise, a party may, by written notice served on the party relying on the affidavit concerned at least seven days before the trial or hearing, require the deponent to any affidavit to attend at the trial or hearing at which the affidavit is to be used, for the purpose of being cross-examined.

(3) In any case mentioned in sub-rule (1) or sub-rule (2) in which the deponent does not attend at the trial or hearing, the affidavit may not be used, unless the Court orders otherwise.

**ORDER 51****EXECUTION AND ENFORCEMENT OF JUDGMENTS****1 — GENERAL****1 Definitions**

1. In this Order, unless the context or subject matter otherwise requires—  
“warrant of execution” includes a warrant to seize property and a warrant of delivery of goods.

**2 Stay of execution**

2. (1) The Court may stay execution of any judgment or order.

(2) The Court may stay execution of an order, or make any order that the nature of the case requires, on the ground of matters occurring after the order was made.

**3 Duration of judgments**

3. (1) Judgments remain in full force and effect for twelve years from the date on which they were given or made, but no judgment may be executed after six years from the date on which it was given or made without permission of the Court.

(2) An application for permission to execute after six years must be made by notice of motion, which must be served on the person sought to be made liable.

**4 Change of parties**

4. (1) If, at any time during the period of twelve years for which a judgment remains in force, a change takes place, by death, assignment or otherwise, in the parties, a party may apply to the Court on notice served on the other party to have the judgment amended accordingly.

(2) If satisfied that the party applying under sub-rule (1) is entitled to execution, the Court may make any appropriate order and may make any amendment to a judgment required to give effect to that order and may impose such terms as to costs or otherwise as appear just.

**5 Execution against two or more persons**

5. (1) If a judgment is given or made against two or more respondents jointly, the judgment or order may be enforced by warrant or otherwise against any of the respondents as if the order had been made against that respondent separately.



(2) If an order against two or more respondents jointly is satisfied by any of the respondents, no further steps may be taken against any other respondent by the party in whose favour the order so satisfied was made.

## **6 Execution against partners**

6. (1) Where a judgment or order is against a firm, execution may issue:

- (a) against any property of the partnership within the State;
- (b) against any person who has appeared in his own name under Order 43, rule 22 and has failed to deliver a defence, or who has admitted on the pleadings that he is, or who has been adjudged to be, a partner.

(2) If the person who has obtained judgment claims to be entitled to issue execution against any other person as being a member of the firm, he or she may apply to the Court on notice to that other person for permission to do so.

(3) The Court may give permission to issue execution if the liability is not disputed. If the liability is disputed, the Court may order that the liability be tried and determined in any manner in which any issue or question in any action may be tried and determined.

(4) Except as against any property of the partnership, a judgment against a firm does not render liable, or otherwise affect any member of the partnership who was out of the State when the claim notice or other document commencing the civil proceedings was issued, and who has not entered an appearance unless he has been made a party to the civil proceedings under Order 43, or has been served within the jurisdiction after the claim notice or other document commencing the civil proceedings was issued.

## **7 Application of certain rules, practice and procedure of Circuit Court**

7. Subject to this Order and except where otherwise expressly provided by these Rules, the rules, practice and procedure of the Circuit Court which apply to or are adopted by a County Registrar in the execution of warrants of execution apply, with such modifications as are necessary, to the execution of warrants to seize property and warrants of delivery.

## **8 Execution by another County Registrar**

8. A warrant addressed to a County Registrar may be executed by another County Registrar if the person against whom the warrant has been issued has goods within the county for which that other County Registrar acts.

## 2 — SEIZURE OF GOODS IN SATISFACTION OF JUDGMENT FOR MONEY OR COSTS

### 9 Execution by County Registrar

9. (1) Judgments for the recovery of money or judgments or orders for costs require all Sheriffs and County Registrars to take in execution the goods of the respondent or of the claimant, as appropriate, to satisfy the debt, costs, value-added tax, expenses, and interest on the debt, as the case may be.

(2) A warrant for signature by the County Registrar authorising execution may be added to every judgment for the recovery of money or judgment.

(3) Warrants authorising execution of judgments for the recovery of money or judgments or orders for costs and warrants for the recovery of rates must be addressed for execution to:

- (a) the County Registrar for the county in which the Court area is situated; or
- (b) where the Court area comprises portion of two or more counties, to the County Registrar of that county comprising the portion of the Court area in which the person against whom the judgment or order was made resides or carries on any profession, business, or occupation.

### 10 Execution of warrants

10. (1) Where a warrant is for the payment of money and goods are seized under the warrant the person to whom the warrant is addressed may sell the goods by auction within the period fixed by the warrant or, if no period is so fixed, within one month from the day on which the goods were seized, unless the sum for which the warrant was issued and the expenses of taking and keeping the goods are paid before the goods are sold.

(2) Despite sub-rule (1), the Court may from time to time extend the period fixed by the warrant or provided by these Rules for sale by auction of goods seized under a warrant for a period of not more than one month from the day on which the period would otherwise expire and so on from time to time.

(3) Where goods are sold under sub-rule (1), the surplus, if any, after retaining:

- (a) the amount to be levied; and
- (b) all reasonable expenses actually incurred in auctioning the goods; and

(c) the expenses of taking and keeping the goods,

must be paid to the person from whom the goods were seized.

(4) The person conducting an auction under this rule need not procure a licence to act as an auctioneer.

(5) Where the person against whom a warrant under rule 2 is issued pays or tenders to the person responsible for the execution of the warrant the amount to be levied by the warrant, the person responsible for the execution of the warrant must refrain from executing the warrant.

(6) When any money is levied or paid to a court messenger under any warrant, the court messenger must give a receipt for the money.

### **11 Warrant to seize goods**

11. (1) Where the Court has given judgment for a sum of money or made an order for the payment of a sum of money for costs, a Clerk may release a warrant to seize goods of the person against who the judgment or order has been made for the purpose of satisfying the judgment debt where:

(a) any Act under which the judgment was given or order was made either specifies no method of enforcement of the order or provides for enforcement by distress, and

(b) either—

(i) the time for appealing against the judgment or order has expired and no appeal has been brought, or

(ii) an appeal has been dismissed and the Circuit Court has not issued execution.

### **12 Issue of a warrant**

12. (1) A warrant referred to in this rule is issued when the warrant is signed by the Judge and issued by the Clerk to the person requesting its issue.

(2) A warrant referred to in this rule must bear the date of its issue.

### **13 Duration of a warrant of execution**

13. (1) A warrant is valid for the purpose of execution for one year after the day it is issued.

(2) Despite sub-rule (1), the Court may from time to time extend the period of the validity of the warrant for the purpose of execution for a period of not more than one year from the day on which it would otherwise expire and so on from time to time.

(3) An extension under sub-rule (2) must not be made after the day of expiry of the warrant.

(4) An application for an order under sub-rule (2) may be made without notice to any person.

(5) A copy of an order under sub-rule (2) must be delivered to the County Registrar by the party obtaining the order.

(6) The priority of a warrant in respect of which an extension under sub-rule (2) had been made must be determined by reference to the date on which the warrant was originally delivered to the person to whom it is directed.

### **3—WARRANTS OF DELIVERY**

#### **14 Warrant of delivery**

14. (1) If an order is made by the Court—

(a) for delivery of goods; or

(b) for delivery of goods or recovery of their assessed value—

a Clerk may issue a warrant of delivery.

(2) If the order of the Court is for the assessed value of goods only, the order may be enforced by the same means as any other order for the payment of money.

**ORDER 51A****ENFORCEMENT OF JUDGMENTS AND ORDERS****1 — DEFINITIONS****1 Definitions**

1. In this Order:-

the “1926 Act” means the Enforcement of Court Orders Act 1926 (No. 18 of 1926);

the “1940 Act” means the Enforcement of Court Orders Act 1940 (No. 23 of 1940);

the “1986 Act” means the Courts (No. 2) Act 1986 (No. 26 of 1986);

the “2009 Act” means the Enforcement of Court Orders (Amendment) Act 2009 (No. 21 of 2009);

“debt” includes any balance of a debt remaining due after payment or recovery of part of the debt originally due;

“instalment order” means an order of the Court under section 17 of the 1926 Act for the payment of debt and costs made in examination proceedings;

“judgment” includes any order or decree of a competent court;

“return date” means the date of the sitting of the Court at which the examination of the debtor is to take place or, as the case may be, at which an application to vary an instalment order is scheduled to be heard.

**2 — ENFORCEMENT UNDER THE ENFORCEMENT OF COURT ORDERS ACTS 1926 TO 2009****2 Court venue**

2. Proceedings for the enforcement of a judgment under the Enforcement of Court Orders Acts 1926 to 2009 may be brought, heard and determined at any sitting of the Court for the Court area in which the debtor is ordinarily resident.

**3 Summons for attendance of debtor and statutory declaration**

3. (1) When a debt is due on foot of a judgment of a competent court and the creditor requires the attendance of the debtor before the Court for examination as to the debtor’s means under section 15 (as substituted by section 1(1) of the 1986 Act) of the 1926 Act, the creditor may proceed in accordance with this rule.

(2) The creditor or the creditor's solicitor may lodge with the Clerk in duplicate for issue a summons in the Form 51A.01 Schedule C and the statutory declaration (in the Form 51A.03 Schedule C, modified as appropriate) required by section 15(2) of the 1926 Act.

(3) The Clerk must enter a return date on the summons and list the matter for hearing.

(4) The creditor must serve the summons on the debtor.

(5) The summons must be served on the debtor in a manner prescribed in Order 41 at least 14 days or, if service is by registered post, at least 21 days, before the return date.

(6) The original of the summons, and a statutory declaration of service of the summons, must be filed with the Clerk at least four days before the return date.

#### **4 Statement of means**

4. (1) A summons under rule 3, in addition to requiring the attendance of the debtor in Court on the return date for examination as to his or her means, also requires the debtor to complete and file with the Clerk not less than one week before the return date a statement of means (Form 51A.02 Schedule C) attached to the summons.

(2) The creditor or creditor's solicitor may, on payment of the prescribed fee, inspect and take or obtain copies of the statement of means at any time after it is lodged.

#### **5 Creditor's proofs**

5. (1) At an examination pursuant to a summons served under rule 3(2) the creditor or creditor's solicitor must produce to the Court:

(a) the judgment on which the creditor relies or other evidence of the original debt due to the creditor under the judgment,

(b) a certificate in the Form 51A.04 Schedule C signed by the creditor or creditor's solicitor setting out the amount outstanding at the date of the certificate, and

(c) evidence that the debtor is ordinarily resident in the Court area in which the examination is taking place.

(2) A copy of the certificate referred to in sub-rule (1)(b) must be given to the debtor or debtor's solicitor before the return date.

#### **6 Instalment order**

6. (1) An instalment order may be served on the debtor in accordance with Order 41.

(2) An instalment order continues in force until the expiration of 12 years from the date of the judgment to which it relates, unless the debt and costs payable have been duly paid in full.

(3) No instalment which accrues due under an instalment order after the instalment order ceases to be in force is payable or recoverable.

## **7 Variation of an instalment order**

7. (1) Where a person wishes to apply to the Court under section 5 of the 1940 Act to vary the terms of an instalment order, that person must apply to the Clerk for the issue of a summons in the Form 51A.05, Schedule C, modified as appropriate.

(2) The summons to vary must be served on the creditor or the debtor, as the case may be, in accordance with Order 41.

(3) The original summons and a statutory declaration of service must be lodged with the Clerk at least four days before the return date.

(4) The applicant must serve the order of the Court granting the application to vary on the other party in accordance with Order 41.

(5) An order varying an instalment order does not operate to make the instalment order enforceable after the expiration of 12 years from the date of the relevant judgment.

## **8 Failure to comply with an instalment order**

8. (1) When a creditor wishes to apply for a summons under section 6(1) of the 1940 Act (as substituted by section 2 of the 2009 Act), the creditor may proceed in accordance with this rule.

(2) The creditor or the creditor's solicitor may lodge with the Clerk in duplicate for issue a summons in the Form 51A.06, Schedule C, modified as appropriate and a statutory declaration (in the Form 51A.03 Schedule C, modified as appropriate).

(3) The Clerk must enter a return date on the summons and list the matter for hearing.

(4) The creditor must serve the summons on the debtor.

(5) A summons issued under section 6(1) of the 1940 Act must be served personally on the debtor (unless the Court directs service otherwise) at least 14 days before the return date of the summons.

(6) The original of the summons, and a statutory declaration of service of the summons, must be filed with the Clerk at least four days before the return date.

(7) An application for a direction under section 6(2)(e) of the 1940 Act that a summons issued under section 6(1) of the 1940 Act be served on the debtor otherwise than by personal service may be made *ex parte* to the Court at any sitting of the Court.

(8) Where such a direction is given, the summons may, notwithstanding sub-rule (2), be served in accordance with the direction.

(9) Unless otherwise directed by the Court, a notice in writing under section 6(5) of the 1940 Act to the debtor of a new date fixed for a hearing of a summons may be handed by the Clerk to the debtor in Court or sent by ordinary post to the debtor.

(10) Unless otherwise directed by the Court, a notification under section 6(3)(b) of the 1940 Act to the debtor of a new date fixed for a hearing at which the debtor is required to attend must be by notice in writing served personally on the debtor.

(11) A copy of a notice mentioned in sub-rule (10) and a statutory declaration of service of the notice must be lodged with the Clerk at least four days before the new date fixed for the hearing.

(12) Where the Court, in accordance with section 6(7)(b) of the 1940 Act, requests the creditor and the debtor to seek resolution by mediation within such period as the Court may specify, the Court must adjourn the proceeding generally with liberty to re-enter it.

(13) Where the creditor wishes to re-enter the proceeding, he or she must apply in writing to the Clerk for re-entry, certifying in that application that mediation has failed to achieve a resolution.

(14) The Clerk must re-list the proceeding for hearing and must send notice of the re-listing to the debtor, to any solicitor who appeared for the debtor on the initial hearing of the summons, and to the creditor by ordinary post.

(15) The creditor may effect further service of a copy of the notice on the debtor in accordance with sub-rule (2).

(16) Where the Court, being satisfied that (i) the instalment order was duly served on the debtor and (ii) the debtor has failed to comply with the instalment order, is also satisfied, beyond reasonable doubt, on the evidence presented, that the creditor has established that—

- (a) the failure to pay the sum in respect of which the debtor has made default is not due to the debtor's mere inability to pay but is due to his or her wilful refusal or culpable neglect, and
- (b) the debtor has no goods which could be taken in execution under any process of the Court by which the judgment, order or decree for the debt was given,



and the Court makes an order under section 6(7)(c) or section 6(7)(d) of the 1940 Act, that order must be in the Form 51A.07 or 51A.08, Schedule C, as appropriate.

(17) Where an order is made under section 6(7)(c) of the 1940 Act, any failure by the debtor to comply with a condition of postponement may be proved by statutory declaration of the creditor lodged with the Clerk, and a warrant may issue on lodgment of such proof but the Clerk may, in any case, re-enter the matter before the Court.

(18) A warrant to enforce an order for arrest and imprisonment pursuant to section 6(7) of the 1940 Act must be in the Form 51A.09 Schedule C and may be added to the form of an order under section 6(7)(c) or section 6(7)(d) of the 1940 Act.

(19) Where a debtor wishes to apply to the Court under section 6(9) of the 1940 Act, he or she must apply to the Clerk for re-entry of the matter.

(20) The Clerk must re-list the matter for hearing and must send notice of the re-listing to the creditor and to the debtor by ordinary post.

(21) Where a debtor wishes to apply to the Court under section 6(10) of the 1940 Act, he or she must apply to the Clerk for re-entry of the matter.

(22) The Clerk must re-list the matter for hearing and must notify the creditor, the debtor and the Governor of the prison in which the debtor is imprisoned of the re-listing of the matter by ordinary post and such other means as the Clerk considers appropriate.

(23) No order under sub-rule (16) may be made against a debtor who is a member of the permanent Defence Forces or a reservist for the time being called out on permanent service.

## **9 No warrant to issue, or warrant to be returned, where an appeal is lodged**

9. (1) Where:

- (a) a notice of appeal against an order for arrest and imprisonment under section 6(7) of the 1940 Act has been lodged; and
- (b) a recognisance (if required) has been entered into; and
- (c) the warrant to enforce the order has not been issued,

the warrant must not be issued until the appeal has been decided or the appellant has failed to perform the conditions of the recognisance, as the case may be.

(2) Where a warrant to enforce the order has been issued but not executed when a notice of appeal is lodged, the Clerk must forthwith:

- (a) notify the Superintendent of the Garda Síochána to whom the warrant was addressed that a notice of appeal has been lodged (and that a recognisance has been entered into, if that be the case); and
- (b) request the Superintendent to return the warrant for cancellation by the Court.

#### **10 Clerk to secure return of warrant where amount due is paid to him or her**

10. Where a warrant to enforce an order for arrest and imprisonment under section 6(7) of the 1940 Act has been issued but not executed and the amount of the arrears of instalments and costs specified in the order is paid to the Clerk, the Clerk must forthwith:

- (a) notify the Superintendent of the Garda Síochána to whom the warrant was addressed that payment has been made; and
- (b) request the Superintendent to return the warrant for cancellation by the Court.

#### **11 Notice by Governor of prison to Clerk**

11. The Governor of a prison in which the debtor is imprisoned by virtue of a warrant under rule 8 must forthwith on the reception in the prison of the debtor give notice in writing of the reception of the debtor to the Clerk specified in the warrant.

#### **12 Clerk to notify Governor when payment is received and debtor is in custody**

12. Where, subsequent to the arrest and imprisonment of a debtor under section 6(7) of the 1940 Act, the amount of the arrears of instalments and costs specified in the order for arrest and imprisonment is paid to the Clerk, the Clerk must:

- (a) give a certificate of payment to the person making the payment on behalf of the debtor;
- (b) forthwith forward a similar certificate to the Governor of the prison in which the debtor is imprisoned and to the creditor or creditor's solicitor.

### **3 — OTHER ENFORCEMENT**

#### **13 Attendance of company**

13. (1) This Rule applies where—

- (a) the Court by witness summons or otherwise makes an order in any proceeding for the production by a company of any document or thing; and

(b) after service of the order the company defaults in producing the document or thing in accordance with the order.

(2) In the circumstances referred to in sub-rule (1), the Court may—

(a) make an order that a named officer of the company produce the document or thing; and

(b) order the company to pay any costs and expenses occasioned by the default.

#### **14 Substituted performance**

14. (1) If an order that has been made against a person requires the person to do an act and the person does not do the act, the Court may—

(a) direct that the act be done by a person appointed by the Court; and

(b) order the person against whom the order has been made to pay any costs and expenses occasioned by the default.

#### **15 Enforcement by or against non-party**

15. (1) A person not being a party who obtains an order or in whose favour an order is made may enforce the order by the same means as if that person were a party.

(2) If an order may be enforced against a person not a party, the order may be enforced against the person by the same means as if the person were a party.

(3) If an order may be enforced against a company not a party, the processes of enforcement apply to an officer of the company as if the company were a party.

#### **16 Non-performance of condition**

16. A person entitled to an order subject to the fulfilment of a condition who fails to fulfil the condition must be taken to have abandoned the benefit of the order, and, unless the Court otherwise orders, any other person interested may take any steps which are warranted by the order or which might have been taken if the order had not been made.

#### **17 Order in aid of enforcement**

17. (1) The Court may make any order that it thinks just in aid of the enforcement of a warrant of execution.

(2) An application for an order under sub-rule (1) may be made by a County Registrar or other person to whom a warrant of execution is directed.

**18 Provisions of Order 26 to apply**

18. The provisions contained in Order 26 (relating to warrants in criminal proceedings) apply to warrants issued under this Order.

**19 Registration of judgments of the Court**

19. (1) Any judgment or order for costs issued or made by the Court providing for the payment of a sum of money may be registered (under section 25 of the Courts Act 1981) in the Central Office of the High Court in the like manner as a judgment of the High Court may be registered in that Office.

(2) The practice and procedure in use in the Central Office of the High Court in relation to the registration of judgments of the High Court applies to and must be followed in relation to the registration of a judgment or order of the Court.

**20 Enforcement of PIAB orders to pay and judgments of EU courts**

20. (1) The provisions of these Rules which relate to the enforcement of any judgment of a court apply, with any necessary modifications, to any order to pay issued by the Personal Injuries Assessment Board under section 38(1) of the Personal Injuries Assessment Board Act 2003.

(2) Any Form in Schedule C which contains a reference to a judgment may be adapted to refer to an order to pay.

(3) The provisions of this Order which relate to the enforcement of any judgment of a court apply, where and to the extent so provided by these Rules, to a judgment or other instrument issued by a court in a Member State of the European Union other than the State.

**ORDER 51B****INTERPLEADER****1 Notice of claim to goods taken in execution**

1. A claim to or in respect of any goods or chattels not exceeding in value the monetary limit of the Court's jurisdiction which have been taken in execution or intended execution by a County Registrar must:

- (a) be in writing (Form 51B.01 Schedule C);
- (b) contain the full name and description of the claimant; and
- (c) contain an address at which service will be accepted by or on behalf of the claimant.

**2 County Registrar's notice to party claiming execution**

2. On receipt of a claim mentioned in rule 1, the County Registrar must immediately send written notice of the claim to the party claiming execution or to his or her solicitor.

**3 Notice of admission or denial of claim**

3. Within two days after receiving the notice mentioned in rule 2, the party claiming execution must give written notice (which may be in the Form 51B.02 Schedule C) to the County Registrar of whether he or she disputes or admits the title of the claimant to the goods or chattels or requests the County Registrar to withdraw from possession.

**4 Deposit by claimant**

4. If within the period of two days mentioned in rule 3 the party claiming execution does not:

- (a) admit the title of the claimant or
- (b) request the County Registrar to withdraw from possession,

the County Registrar must immediately send written notice to the claimant:

- (i) requiring him or her within two days of the service of that notice to deposit with the County Registrar the amount for which the warrant of execution was issued or, if the value of the goods or chattels seized is less than the amount set out in the warrant of execution, the value of the goods or chattels, and
- (ii) giving the claimant notice that in default of his or her making the deposit required, an application will be made, after

service of an interpleader summons (which is a summons in civil proceedings), to the Court for an order for sale.

### **5 Procedure on deposit being made**

5. Where the claimant deposits with the County Registrar:

- (a) the amount for which the warrant of execution was issued or,
- (b) if the value of the goods or chattels as determined by the County Registrar or by a valuer appointed by the County Registrar, being less than the amount for which the warrant of execution was issued, a sum equal to the value as so determined,

the County Registrar must withdraw from the possession of the goods and chattels and the sum deposited may be disposed of as the Court directs.

### **6 Application for sale**

6. (1) Where the claimant does not make the deposit required under rule 4, the Court may, at any time after the service of an interpleader summons, on application made:

- (a) by the execution creditor on notice to the claimant and to the County Registrar, or
- (b) by the County Registrar on notice to the parties,

make an order for the sale of all or any of the goods and chattels seized, subject to such conditions as to the giving of security by the execution creditor or otherwise as the Court thinks just.

(2) The notice of application to the Court for an order for the sale of all or any of the goods and chattels seized must be in Form 51B.03 Schedule C and must be served two clear days before the return date.

### **7 Application may be heard outside of scheduled Court sittings**

7. (1) An application under rule 6 may be heard otherwise than at a scheduled sitting of the Court at any time and place within the appropriate Court district which the Judge deems suitable.

(2) The costs of any application under rule 6 may be provided for by the Court on the hearing of the interpleader summons.

### **8 Order for sale**

8. Any order for sale must direct that the proceeds of the sale be lodged with the Clerk to abide the order of the Court on the hearing of the interpleader summons.

## **9 Service of interpleader summons**

9. (1) An interpleader summons (Form 51B.04 Schedule C) must be served on the claimant (or where the claim has been made by a solicitor for the claimant, on the claimant's solicitor) and on the party claiming execution (or where the warrant of execution has been lodged with the County Registrar by a solicitor for the party claiming execution, on the party's solicitor).

(2) An interpleader summons must be served in a manner provided by Order 41.

## **10 Liability for costs**

10. (1) On the hearing of the interpleader summons the Court must determine:

- (a) the liability of the parties to pay costs and expenses;
- (b) the amount of the costs and expenses; and
- (c) by whom and to whom the costs and expenses are to be paid.

(2) The scale of costs for tort cases in the Schedule of Costs is the appropriate scale for proceedings begun by interpleader summons.

**ORDER 51C****EUROPEAN ENFORCEMENT ORDERS****1 Definitions**

1. In this Order:-

“domestic judgment” means any judgment or decree of the Court for the recovery of any sum of money, or any order (including an order made by consent) of the Court or dismiss by the Court requiring the payment of any sum of money, to which Regulation No. 805/2004 applies;

“Regulation No. 805/2004” means Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 143/15 of 30 April 2004;

“Regulation No. 1869/2005” means Commission Regulation (EC) No 1869/2005 replacing the Annexes to Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 300/6 of 16 November 2005;

the “2005 Regulations” means the European Communities (European Enforcement Order) Regulations 2005 (S.I. No. 648 of 2005).

**2 Provisions on enforcement to apply to a judgment, authentic instrument or court settlement certified as a European Enforcement Order in the Member State of origin**

2. (1) Subject to Regulation No. 805/2004 and to the 2005 Regulations, the provisions of Order 51A, rules 1 to 12 inclusive, so far as they may be applied to a judgment of the High Court, may be applied to a judgment, authentic instrument or court settlement which has been certified as a European Enforcement Order in the Member State of origin.

(2) Any reference in Order 51A, rules 1 to 12 inclusive to a “judgment”, where the context so admits, includes a reference to a judgment, authentic instrument or court settlement which has been certified as a European Enforcement Order in a Member State of origin. In such a case, any Form in Schedule C which contains a reference to a judgment, order or decree may be adapted to refer to the European Enforcement Order.

**3 Provision of documents to Clerk**

3. Where an application is made by a creditor for enforcement in accordance with Order 51A, rule 3, of a judgment which has been certified as a European Enforcement Order in a Member State of origin other than the State, the creditor must, in addition to lodging the summons in duplicate and



statutory declaration with the Clerk, provide the Clerk with the documents referred to in Article 20(2) of Regulation No. 805/2004.

#### **4 Application to certify a judgment as a European Enforcement Order**

4. Where a domestic judgment has been given or made, an application to certify that domestic judgment as a European Enforcement Order:

- (a) may be made *ex parte* to the Court at the hearing at which that domestic judgment is given or made; or
- (b) if not made at that hearing, must be made *ex parte* to the Court on another occasion.

#### **5 Application to certify to be supported by affidavit**

5. (1) An application to certify a domestic judgment as a European Enforcement Order must, unless the Court otherwise directs or permits, be supported by an affidavit sworn by or on behalf of the moving party. The affidavit may be in the Form No. 51C.01, Schedule C with such modifications as are necessary.

(2) A certificate given on foot of an application pursuant to Article 6(1) of Regulation No. 805/2004 must be in the Form in Annex I to Regulation No. 1869/2005.

#### **6 Application to certify lack or limitation of enforceability**

6. (1) Where a domestic judgment, which has been certified as a European Enforcement Order, has ceased to be enforceable or its enforceability is or has been suspended or limited, an application under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of that domestic judgment may be made *ex parte* to the Court by any party.

(2) A certificate indicating the lack or limitation of enforceability of a domestic judgment given on foot of an application under Article 6(2) of Regulation No. 805/2004 must be in the Form in Annex IV to Regulation No. 1869/2005.

#### **7 Application for replacement certificate**

7. (1) Where the Court gives a judgment or makes an order following a challenge to a domestic judgment, which has been certified as a European Enforcement Order, an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate may be made *ex parte* to the Court by any party at the hearing at which that judgment is given or order is made.

(2) A replacement certificate given on foot of an application under Article 6(3) of Regulation No. 805/2004 must be in the Form in Annex V to Regulation No. 1869/2005.

### **8 Application by motion following hearing where decision made**

8. (1) Unless made in accordance with rule 6(1) or, as the case may be, rule 7(1), an application under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of a domestic judgment or an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate must be made by notice of motion in the Form No. 44.01, Schedule C with the necessary modifications.

(2) A copy of the notice of motion must be served on the judgment creditor or judgment debtor (as the case may be).

(3) The application must be supported, where necessary, by an affidavit sworn by or on behalf of the moving party.

(4) There must be exhibited to any affidavit in support of any such application a completed draft of the form of European Enforcement Order certificate sought, and the contents of the draft certificate must be verified in the affidavit.

(5) A copy of the notice of motion and a copy of any affidavit intended to be used in the application must be served on the judgment creditor or judgment debtor (as the case may be) in accordance with Order 41 not later than seven days before the return date of the application.

(6) The original of any affidavit intended to be used in the application must be lodged with the Clerk not later than four days before the return date of the application.

### **9 Application for rectification or withdrawal of a European Enforcement Order certificate**

9. (1) An application under Article 10(1) of Regulation No. 805/2004 for the rectification or the withdrawal of a European Enforcement Order certificate must be made to the Court which certified the domestic judgment concerned as a European Enforcement Order.

(2) Before making an application under Article 10(1), the moving party must complete the Form of application in Annex VI to Regulation No. 1869/2005, and must file the completed form of application with the Clerk.

(3) The moving party must serve a copy of the completed form of application on the judgment creditor or (as the case may be) the judgment debtor, together with a copy of any affidavit sworn by or on behalf of the moving party and intended to be used in the application.

(4) Where rectification is sought, there must be exhibited to any affidavit in support of the application a copy of the form of European Enforcement

Order certificate previously issued, marked with the rectification sought, and the contents of the marked certificate must be verified in the grounding affidavit.

(5) Where, on an application under this rule, it is determined that the European Enforcement Order certificate in respect of the domestic judgment concerned ought to be rectified or withdrawn, the party on whose application the domestic judgment concerned was certified as a European Enforcement Order must within seven days of that determination lodge the original European Enforcement Order certificate in respect of the domestic judgment concerned with the Clerk.

(6) In the case of rectification, the party who applied for rectification must lodge a draft rectified certificate with the Clerk.

(7) The Clerk must, in a case of rectification, produce the rectified certificate to the Judge to be re-signed.

(8) Subject to any direction made by the Court in that regard, the Clerk must issue the rectified certificate to the party on whose application the domestic judgment concerned was certified as a European Enforcement Order.

(9) In the case of withdrawal, the Clerk must produce the certificate to the Judge to be cancelled.

(10) Where the person on whose application the domestic judgment concerned was certified as a European Enforcement Order fails in accordance with sub-rule (5) to lodge the original European Enforcement Order certificate in respect of the domestic judgment concerned with the Clerk within seven days of a determination, the Clerk must, at the request of the applicant, provide the applicant with a certificate signed by the Judge certifying the fact that the European Enforcement Order certificate has been rectified or (as the case may be) withdrawn.

### **10 Duplicate certificate**

10. (1) The Clerk may at the request of a party, present for signature by the Judge and issue to the party a duplicate of any certificate referred to in this Order.

(2) Any duplicate certificate must be marked as a duplicate.

### **11 Lodgment of draft certificate**

11. The applicant must in every case lodge with the Clerk a draft of the completed form of the certificate for which application has been made, where a draft certificate has not already been exhibited to an affidavit supporting the application for the certificate.

**ORDER 53****COSTS****1 — GENERAL****1 Costs in general to be in the discretion of Court**

1. Save as otherwise provided by statute or by these Rules, the granting or withholding of the costs of any party to civil proceedings or other proceedings in the Court in which by law the Court may award costs are in the discretion of the Court.

**2 Scales of costs**

2. (1) Save as otherwise provided, the costs specified in each scale in the Schedule of Costs are the only lawful costs.

(2) The Court may, where appropriate in the special circumstances of a case, to be specified by the Court, award an amount for costs and/or counsel's fees in excess of the amount provided in the Schedule of Costs.

(3) The costs in the Schedule of Costs are in every instance exclusive of and in addition to any sum allowed as recovery of value-added tax and all actual and necessary outlay as is allowed.

(4) The Schedule of Costs must be revised no less frequently than once every three years.

(5) In any case where the Court is of the opinion that there is no appropriate scale of costs provided, it may measure the costs.

(6) In this rule:

“actual and necessary outlay” must include a sum for miscellaneous outlays set out under the heading “Schedule of Outlays” in the Schedule of Costs to include postage, photocopying, registered post, fax and sundries and the Schedule of Costs must also be read accordingly.

**3 Information and documents in support of application for costs**

3. (1) Where a party intends to apply for costs otherwise than in accordance with the Schedule of Costs, that party must have available in Court any information or document which establishes the special circumstances in the case which to support such an application.

(2) Where a party applies for an item of cost not provided for in the Schedule of Costs to be allowed, that party must have available in Court any information or document which establishes that the item of cost was necessary or reasonable to be incurred, and documents vouching the cost (if already incurred or paid) or providing an estimate of such cost.

(3) Where a party applies for the costs of a civil proceeding, that party must have available in Court information or documents sufficient to confirm the particular pre-hearing steps taken or applications made in the proceeding (including particulars, discovery, applications for judgment on affidavit or judgment in default and any case management hearing) so as to enable the proper amount of costs to be determined.

#### **4 Witnesses' expenses**

4. The Court has discretion to allow or to refuse to allow the expenses (or any part thereof) of any witness (including a claimant or respondent) and where allowed, the amount of such expenses (or part thereof) may be measured by the Court.

#### **5 Where no solicitor retained**

5. No costs other than actual and necessary outlay and witnesses expenses if awarded may be allowed or awarded to a party who conducts his or her own case.

#### **6 Where respondent not professionally represented**

6. Where the claimant is successful and the respondent has not been professionally represented at the hearing, the costs must be in the appropriate scale for undefended cases, unless the Court, on application made to it at the hearing, directs that the scale for defended cases is to apply.

#### **7 Costs of adjournment**

7. The Court may allow the costs and expenses of any adjournment of the hearing or further hearing of any civil proceedings and may order that such costs be added to or deducted from the costs allowed to either party on the final determination of the proceedings, or may if it thinks it reasonable to do so, make a separate order for their payment.

#### **8 Power to strike out with costs claims where no jurisdiction**

8. (1) Where civil proceedings are brought in the Court or in a Court district or Court area which the Court has no jurisdiction to hear and determine, the Court must, as soon as such want of jurisdiction becomes apparent, order the proceedings to be struck out.

(2) Where the court strikes out proceedings in accordance with sub-rule (1), it may, if it thinks proper, make an order awarding the respondent such costs as the Court could have awarded if it had jurisdiction to try and determine the proceedings and either the claimant did not appear or appeared and failed to prove his or her claim.

Note: See Courts of Justice Act 1936 (No. 48 of 1936), section 60

### **9 Costs of question or part of proceeding**

9. (1) The Court may make an order for costs in relation to a particular question in or a particular part of a civil proceeding.

(2) If the Court makes an order under sub-rule (1), the Court must by order fix the amount of the total costs of the proceeding which is attributable to the particular question in or the particular part of the proceeding.

### **10 Extension or abridgement of time**

10. If a party applies for an extension or abridgement of any time fixed by these Rules or by any order fixing, extending or abridging time, that party must, unless the Court otherwise orders, pay the costs of and occasioned by the application.

### **11 Discontinuance or withdrawal**

11. (1) Unless the Court otherwise orders, a party who discontinues or withdraws part of a proceeding, counterclaim or claim by third party notice must pay the costs of the party to whom the discontinuance or withdrawal relates to the time of the discontinuance or withdrawal.

(2) Sub-rule (1) does not apply to small claims proceedings.

### **12 Lodgment or tender offer**

12. If a lodgment or tender offer is served and the lodgment or tender offer has not been accepted at the time a final order is made on the claim that relates to the lodgment, tender offer or offer of compromise, liability for costs must be determined in accordance with Order 45.

### **13 Scale fees**

13. Where counsel is allowed, the scales of counsel's fees in the Schedule of Costs apply, provided that in any proceedings not covered by these scales the fees must be determined by the Court having regard to the scales and to the amount involved in the case.

### **14 Application of scales**

14. (1) In fixing costs for work done in a civil proceeding the appropriate scales must be determined as follows—

- (a) as between party and party, the amount recovered or the value of the property in dispute regulates the scale of the claimant's costs, and the amount sought to be recovered or the value of the property in dispute regulates the scale of the respondent's costs; and
- (b) as between solicitor and client, unless the Court otherwise orders, the amount sued for, or the value of the property in dispute, regulates the scale without reference to the result;

- (c) where a counterclaim is made the scale on which the costs of the parties are to be fixed or taxed must be determined as follows—
    - (i) if the claimant is successful on both claim and counterclaim, by the amount which the claimant recovers on the claim, unless the amount of the respondent's counterclaim is the larger, in which case the costs incurred subsequently to the delivery of the counterclaim must be determined by the amount of that counterclaim;
    - (ii) if the respondent is successful on both claim and counterclaim, by the amount which the respondent recovers on the counterclaim, or the amount of the claimant's claim, whichever is the larger;
    - (iii) if both parties are successful, by the amounts which they recover on their respective claims; and if both claims fail, by the amount claimed by the opposite party;
  - (d) in a proceeding or matter for which no provision has been specifically made in the Schedule of Costs, the Court may direct that a scale of costs specified by the Court applies;
  - (e) despite anything in these Rules, if in a proceeding or matter the Court considers that the application of the rules in this Order which determine that a particular scale of costs applies would be inappropriate or unjust, the Court may, either at the hearing, or within a reasonable time after the hearing, fix the costs.
- (2) For the purposes of sub-rule (1)(a) the amount recovered is—
- (a) the amount of the order in the claimant's favour including any amount for interest or damages in the nature of interest; and
  - (b) any interest or damages in respect of the amount awarded by the Court under any enactment—

but does not include any amount recovered by or awarded to the claimant for interest or damages in the nature of interest relating to the period after the day the payment into Court was made or the offer of compromise was served.

### **15 Costs to be fixed at hearing where possible**

15. The Court may fix the costs of any claim notice or application at the hearing at which the claim notice or application is heard and determined, or may adjourn determination of such costs for such time as to the Court seems just.

**16 Time for costs order and payment**

16. (1) The Court may in any proceeding exercise its power and discretion as to costs at any stage of the proceeding or after the conclusion of the proceeding.

(2) Costs which a party is required to pay under any of these Rules or an order of the Court must, unless the Court otherwise orders, be paid forthwith.

(3) If the Court makes an interlocutory order for costs, the Court may then or thereafter order that if the party liable to pay the costs fails to do so—

(a) if that party is the claimant, that the proceeding be stayed or dismissed;

(b) if that party is a respondent, that the respondent's defence is to be struck out.

(4) In sub-rule (3)—

“respondent” includes any person against whom a claim is made in a proceeding;

“claimant” includes any person who makes a claim in a proceeding.

**17 Proceeding or counterclaim dismissed**

17. (1) A proceeding that is or stands dismissed by or under an order of the Court or these Rules must, unless the Court otherwise orders, be taken to be a proceeding that is dismissed with costs.

(2) Sub-rule (1), with any necessary modification, applies to a counterclaim and to a claim by third party notice as if the counterclaim or third party claim were a claim notice.

**18 Amendment**

18. If a pleading is amended (whether with or without permission) the costs of and occasioned by the amendment and the costs of any application for permission to make the amendment are the parties' costs in the proceeding, unless the Court otherwise orders.

**19 Non-admission of fact or document**

19. If a party serves a notice—

(a) under Order 45D, rule 3, disputing a fact, and afterwards that fact is proved in the proceeding;



- (b) under Order 45D, rule 5, disputing the authenticity of a document, and afterwards the authenticity of that document is proved in the proceeding—

that party must pay the costs of proof, unless the Court otherwise orders.

## **20 Costs reserved**

20. If by order of the Court the costs of any interlocutory or other application, or of any step in a proceeding, are reserved, the reserved costs are the parties' costs in the proceeding, unless the Court otherwise orders.

## **21 Trustee or mortgagee**

21. A party who sues or is sued as trustee or mortgagee must, unless the Court otherwise orders, be entitled to the costs of the proceeding out of the fund held by the trustee or out of the mortgaged property in so far as the costs are not paid by any other person.

## **22 Costs in hire purchase claims**

22. Proceedings by the owner of a chattel against the hirer of the chattel under a hire-purchase agreement for the recovery or return of the chattel must, for the purpose of the measurement of the costs, be deemed to be an action in contract in which the amount sued for is the amount of the instalments due and unpaid under the agreement at the date of commencement of the proceedings.

## **23 Costs in claims for wrongful detention**

23. In claims for wrongful detention brought by virtue of section 33(3) of the Courts (Supplemental Provisions) Act 1961, the costs awarded must be on the tort scale according to the value of the goods as determined by the Court.

## **24 Costs in claims to which the Attorney General or a Minister is a party**

24. The scales of costs in the Schedule of Costs apply to proceedings to which the Attorney General or any Minister of the Government or any Minister of State or any Government Department is a party.

## **25 Costs in consent proceedings**

25. Solicitors' costs, where allowed, in consent proceedings to which section 4(c) of the Courts Act 1991 and Order 40, rule 7 relate, must be in accordance with the provisions of item No. 10 in the Schedule of Costs.

## **26 Costs in proceedings transferred from the High Court or the Circuit Court**

26. Solicitors' costs, where allowed, in civil proceedings remitted or transferred from the High Court or the Circuit Court and to which Order 40,

rule 8 relates, must be in accordance with the provisions of item No. 11 in the Schedule of Costs.

### **27 Value Added Tax**

27. There must be added to the costs and, where relevant, counsel's fees, awarded in any civil proceeding any sum payable by way of value-added tax on the costs by the party to whom they are awarded where, and only where, that party establishes that the sum payable by way of value-added tax is not otherwise recoverable.

## **3 — COUNSEL'S FEES**

### **28 Not allowed where sum does not exceed €2,000**

28. (1) Subject to rule 2(2), in any award of costs in any civil proceedings in the Court a fee for counsel may not be included—

- (a) in any action in contract, breach of contract, tort or in claims for damages unconnected with contract, where the amount recovered by the claimant or, where the claim was dismissed, the amount claimed against the respondent does not exceed €2,000, and
- (b) in any landlord and tenant proceedings for overholding or non-payment of rent, where the annual rent does not exceed €2,000.

### **29 Court to certify for counsel**

29. In the award of costs in any civil proceedings in the Court to which rule 28 does not apply, a fee for counsel may not be included unless the Court certifies that, in its opinion, the employment of counsel was necessary for the attainment of justice or for enforcing or defending the rights of the party concerned.

### **30 No separate counsel's fee for barrister employed on a full-time basis**

30. Where a barrister who acts as advocate for a party in any civil proceedings in the Court to which rule 28 does not apply is employed on a full-time or exclusive basis by the party's solicitor or by the party, a fee for counsel may not be included in the party's costs in addition to any solicitor's scale fee.

**ORDER 53A****SMALL CLAIMS PROCEDURE****1 Definitions**

1. In this Order-

“business” means a natural or legal person (including a company, partnership or natural person trading as a sole trader) who supplies, sells or purchases goods or services in the ordinary course of a business;

“business small claim” means a civil proceeding instituted under this Order by a business purchaser against a business vendor in relation to a contract in respect of any goods or service purchased, but excluding any claim—

- (a) arising from an agreement to which the Consumer Credit Act 1995 applies or to which the Consumer Credit Regulations apply, or
- (b) arising from an alleged breach of a leasing agreement, or
- (c) for debt or liquidated damages,

provided that in every such case the amount of the claim does not exceed the sum of €2,000;

“consumer” means a purchaser of goods or a service of a type ordinarily supplied for private use or consumption, where the purchaser does not make the contract in the course of a business and the vendor does make the contract in the course of a business;

“Consumer Credit Regulations” means the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281 of 2010);

“consumer small claim” means a civil proceeding instituted under this Order

(1) in relation to a consumer contract, by the consumer against the vendor in respect of any goods or service purchased, which is not a claim—

- (a) arising from an agreement to which the Consumer Credit Act 1995 applies or to which the Consumer Credit Regulations apply, or
- (b) arising from an alleged breach of a leasing agreement,

(2) in relation to a tort, by the claimant (not being a body corporate) against the respondent in respect of minor damage caused to property belonging to the claimant but excluding personal injuries.

(3) in relation to a tenancy, by the tenant (not being a body corporate) against the landlord in respect of the non-return of any sum paid by the tenant as rent deposit or any such sum known as "key money" unless such

claim is a dispute that may be referred to the Private Residential Tenancies Board under Part 6 of the Residential Tenancies Act 2004,

provided that in every such case the amount of the claim does not exceed the sum of €2,000;

“Form”, unless the context otherwise requires, means a form set out in Schedule C, or such modification thereof as may be appropriate in any particular case;

“small claim”, when used without qualification, includes a business small claim and a consumer small claim;

“Small Claims Procedure” means the alternative method provided by this Order of commencing and dealing with a civil proceeding in respect of a small claim;

“Small Claims Registrar” means any District Court Clerk who for the time being is performing the duties and functions of a Small Claims Registrar.

## **2 Application to begin small claim proceedings**

2. Whenever it is intended to begin civil proceedings in the District Court and the claim to which the proceedings relate is a small claim as defined in this Order, the person so intending (in this Order called “the claimant”) may, instead of issuing a claim notice, apply to the appropriate Small Claims Registrar to have the claim processed through the Small Claims Procedure, and the proceedings may then be commenced and dealt with in accordance with the provisions of this Order.

## **3 Filing application**

3. An application to which rule 2 relates must be in writing, which may be in electronic form, in the Form 53A.01, Schedule C. The application, when completed, must be filed with the Small Claims Registrar together with any supporting documents required and the appropriate fee. The claimant may call to the Court office if assistance is needed in completing the form.

## **4 Recording of application**

4. The Small Claims Registrar must, in respect of every such application received, record in writing the name and address of the claimant, the name and address of the person against whom the claim is made (in this Order called “the respondent”), the date of the application, the nature of the claim and any other relevant details. The Small Claims Registrar must consider the application and may take such steps as he or she deems necessary, whether by way of interviewing the claimant or otherwise, to record the full facts of the claim.

## 5 Rejection or acceptance of application

5. (1) Where the claim does not come within the scope of the Small Claims Procedure or the claimant fails to supply supporting documents sufficient to identify the proper respondent to his or her claim, the Small Claims Registrar must so inform the claimant and must refund the fee.

(2) If the Small Claims Registrar considers the claim to be appropriate to the Small Claims Procedure, he or she must serve by registered post (or, where permitted, by electronic mail in accordance with rule 15) on the respondent a Notice of Claim in the Form 53A.02, Schedule C (containing also Forms 53A.03 and 53A.04, Schedule C) together with a copy of the Notice of Claim.

## 6 Admission of small claim by respondent

6. (1) If the respondent admits the claim made against him and

- (a) agrees to pay the amount claimed, or
- (b) consents to judgment being given against him, or
- (c) wishes to pay the amount claimed by instalments,

he must complete, detach and return (by post or by hand or, where permitted, by electronic mail in accordance with rule 15) the Notice of Acceptance of Liability (Form 53A.03 Schedule C) to the Small Claims Registrar within 15 days after service of the Notice of Claim and copy claim on him. On receipt of such Notice the Registrar must inform the claimant accordingly.

(2) Where the respondent agrees to pay the amount claimed, he or she may forward to the Small Claims Registrar, together with Form 53A.03, Schedule C, payment by cheque, postal order(s) or money order(s), made payable to the claimant, for the full amount claimed. The Small Claims Registrar must transmit any such payment to the claimant. If the respondent's agreement to pay is conditional, (e.g. on condition that goods are returned by the claimant), the Small Claims Registrar must so inform the claimant and seek his agreement to comply with the respondent's requirement.

(3) Where the respondent consents to judgment being given against him, the Small Claims Registrar must proceed to judgment in the manner provided in rule 11.

(4) Where the respondent wishes to pay the amount claimed by instalments, the Small Claims Registrar must seek the consent of the claimant to the terms proposed by the respondent.

(5) The details of every agreement reached or settlement effected under this rule must be recorded in writing.

### **7 Small claim disputed by respondent**

7. (1) If the respondent disputes the claim or wishes to make a counterclaim, he or she must complete, detach and return (by post or by hand or, where permitted, in electronic form in accordance with rule 15) the Notice of Dispute in the Form 53A.04 Schedule C to the Small Claims Registrar within 15 days after the service of the Notice of Claim and copy claim on him.

(2) Where a counterclaim is made the Notice of Dispute must be accompanied by the appropriate fee (or where the Notice of Dispute is sent electronically, the fee must be paid by cheque, postal order or money order to the Small Claims Registrar as soon as may be following transmission of the Notice of Dispute).

(3) The Small Claims Registrar must promptly furnish the claimant with a copy of any Notice of Dispute received from the respondent.

### **8 Settlement**

8. (1) The Small Claims Registrar must use his best endeavours to settle the dispute(s) between the parties and in that connection may interview the parties and any other person whom either party may wish him to hear.

(2) Where a settlement is effected, particulars of the settlement must be recorded in writing.

(3) Where the terms of an agreement or settlement (including an agreement to pay by instalments) are not complied with, the Small Claims Registrar may, if requested so to do by the claimant, proceed to judgment against the other party.

(4) In cases other than those where payment by instalments has been agreed, he or she must proceed in accordance with the provisions of rule 11.

(5) If default is made in the payment of an instalment, Order 49, rule 14 applies, with any necessary modifications.

(6) Where a judgment is issued in a case to which this rule relates, the Small Claims Registrar must notify the party against whom it was issued accordingly and particulars of the request for and the issue and notification of such judgment must be recorded in writing.

### **9 Referral to Court for hearing**

9. (1) Where the Small Claims Registrar fails to effect a settlement of the dispute between the parties, he or she must refer the matter to the District Court for hearing.

(2) The Registrar may at any time on his own initiative and must, if so requested by either party, refer any application or proceeding under the Small Claims Procedure to the District Court for hearing.

(3) On referral under this rule, the Small Claims Registrar must notify the parties of the place, date and time of hearing. He or she must make himself or herself available to assist the Court at the hearing, if requested by the Court so to do.

### **10 Liability for costs and expenses**

10. The claimant and the respondent are liable for their own legal costs and witnesses' expenses (if any) incurred in respect of any claim processed through the Small Claims Procedure.

### **11 Default by respondent**

11. (1) Where the respondent fails to return either the Notice of Acceptance or Liability (Form 53A.03, Schedule C) or the Notice of Dispute (Form 53A.04, Schedule C) to the Small Claims Registrar within the time permitted and fails to contact the Small Claims Registrar within that period, he or she must be deemed to have admitted the claim.

(2) The claimant may then apply for judgment by swearing an affidavit of debt and lodging same with the Small Claims Registrar together with a requisition for judgment and a Small Claims judgment, and the Small Claims Registrar must proceed to judgment in accordance with the provisions of Order 47 as if the Notice of Claim and copy claim served under these Rules were a claim notice issued and served under Order 40.

(3) The forms of affidavit provided in Order 47 may, with necessary modifications, be used for that purpose.

(4) The claimant may call to the Court office if assistance is needed in completing the forms.

(5) When a judgment is issued under this rule, the Small Claims Registrar must notify the respondent accordingly, and particulars of such issue and notification must be recorded in writing.

### **12 Review of default judgment**

12. The provisions of Order 47, Part 4 (which relates to the review of default judgments) apply, with necessary modifications, in the case of a judgment obtained under rule 8 or rule 11 and Order 47, Part 4 must be construed accordingly, save that in any application under that rule in relation to a default judgment so obtained the parties are liable for their own legal costs and witnesses' expenses (if any).

### **13 No award of costs in small claims procedure**

13. The Court may not award costs or witnesses' expenses to any party when determining any matter referred to it by a Small Claims Registrar under the Small Claims Procedure.

### **14 Forms of judgment may be used**

14. A judgment granted under the Small Claims Procedure is a Small Claims judgment, and the forms of judgment at present in use may, with necessary modifications, be used when preparing the order of the Court.

### **15 Power of Small Claims Registrar to take affidavits and affirmations**

15. (1) Every Small Claims Registrar has the power and is authorised by these Rules, to take affidavits and affirmations for the purposes of processing claims through the Small Claims Procedure and issuing judgments under the Small Claims Procedure.

(2) No fee is payable by any party in respect of any affidavit or affirmation made by him before a Small Claims Registrar under this rule.

### **16 Electronic filing**

16. (1) Notwithstanding any other provision of these Rules, where suitable facilities for that purpose have been established by the Courts Service, and the Judge for the time being assigned to the relevant Court district (or in the case of the Dublin Metropolitan District, the President of the District Court) has so directed, the service of:

- (i) a Notice of Claim by the Small Claims Registrar on a respondent;
- (ii) a Notice of Acceptance of Liability by a respondent on the Small Claims Registrar;
- (iii) a Notice of Dispute by a respondent on the Small Claims Registrar

is valid if transmitted in electronic form as an electronic message to the respondent's electronic mail address (as identified on any letterhead or stationery of the respondent) or to the Small Claims Registrar's electronic mail address (as identified on a website operated by the Courts Service)

provided that where the sender is not satisfied that the electronic message was delivered to the intended recipient (by reason of any delivery status message received) or where no response has been received within a period of seven days following such transmission, then the electronic communication must be treated as if it had never been sent and the relevant document must be served as provided for by rules 5, 6 and 7 within eight days following such period.



(2) No document sent pursuant to the provisions of this rule is invalid or ineffective by reason only of the fact that it does not include a manuscript signature.

(3) Where a provision of this Order requires that a fee or payment be “lodged together with or forwarded together with” a document or that a document be “accompanied by” a fee, the fee or payment must be deemed to have been validly effected or made provided that it is sent to the Small Claims Registrar as soon as may be following the transmission in accordance with this rule of the document in question and accompanied by a written note quoting any reference or claim number given in respect of the small claim to which it relates.

(4) No document sent under the provisions of this rule is invalid or ineffective by reason only of the fact that any fee associated with the lodgment or delivery of the document is recorded or receipted otherwise than by impression of a stamp on the original document.

**ORDER 53B****EUROPEAN SMALL CLAIMS PROCEDURE (FOR CROSS-BORDER SMALL CLAIMS WITHIN THE EUROPEAN UNION)****1 Definitions**

1. In this Order—

the “2008 Regulations” means the European Communities (Small Claims Procedure) Regulations 2008 (S.I. 533 of 2008);

"claim form" means the initiating document completed by a claimant in a European Small Claims Case in the Form A in the Annex to the EU Regulation and in the Form 53B.01, Schedule C;

the “EU Regulation” means Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 (OJ L 199 of 31 July 2007, page 1) establishing a European Small Claims Procedure;

"European Small Claim" means a claim referred to in Article 2(1) of the Regulation and which is not excluded from the application of the EU Regulation by Article 2(2) of the EU Regulation;

"European Small Claims Procedure" means the method provided in the EU Regulation and in this Order for commencing and dealing with a European Small Claim;

"Member State" means a Member State of the European Union other than Denmark;

“Small Claims Registrar” or “Registrar” has the same meaning as in Order 53A and, for the avoidance of doubt, includes a District Court Clerk assigned to the District Court area in which a European Small Claim is lodged who for the time being is performing functions of the Court specified in the 2008 Regulations which may be exercised by a District Court Clerk.

**2 Venue**

2. Subject to the provisions of this Order, proceedings to which this Order applies must be brought and determined in accordance with the provisions of Order 40, rule 4 and, where applicable, Order 41B, rules 2 and 3.

**3 Electronic filing**

3. (1) Notwithstanding any other provision of these Rules, where suitable facilities for that purpose have been established by the Courts Service, and the Court or Registrar has so directed, the service of any document required to be sent, delivered, dispatched or served under the European Small Claims Procedure is valid if transmitted in electronic form as an electronic message to the claimant’s or respondent’s electronic mail address (as identified on

any letterhead or stationery of the claimant or respondent, or as used by either to send any communication to the Registrar) or to the Registrar's electronic mail address (as identified on any website operated by the Courts Service) provided that where the sender is not satisfied that the electronic communication was delivered to the intended recipient (by reason of any delivery status message received) or where no response has been received within a period of seven days following such transmission, then the electronic communication must be treated as if it had never been sent and the relevant document must be served as otherwise provided for in this Order within eight days following such period.

(2) No document sent pursuant to the provisions of this rule is invalid or ineffective by reason only of the fact that it does not include a manuscript signature.

(3) Where a provision of this Order requires that a document be "accompanied by" any fee or payment, such fee or payment must be deemed to have been validly effected or made provided that it is sent to the Registrar as soon as may be following the transmission in accordance with this rule of the document in question and accompanied by a written note quoting any reference or claim number given in respect of the European Small Claim to which it relates.

(4) No document sent pursuant to the provisions of this rule is invalid or ineffective by reason only of the fact that any fee associated with the lodgment or delivery of such document is recorded or receipted otherwise than by impression of a stamp on the original document.

#### **4 Application to institute European small claim proceedings**

4. (1) A person intending to commence a European Small Claim in the Court (hereinafter called the "claimant") may, instead of either:

- (a) issuing an claim notice, or
- (b) making application to the appropriate Small Claims Registrar to have the claim processed through the Small Claims Procedure in accordance with Order 53A (where that procedure is available in respect of the claim)

commence the European Small Claims Procedure by filing a completed claim form accompanied, where appropriate, by any relevant supporting documents, with the appropriate Registrar, accompanied by the appropriate fee.

(2) The claim form and supporting documents may be filed by registered post or, where rule 3 applies, in electronic form.

(3) The claimant may contact the court office if assistance is needed in completing the claim form.

(4) Nothing in this Order precludes a claimant from applying to the appropriate Small Claims Registrar to have his claim processed through the Small Claims Procedure in accordance with Order 53A (instead of the European Small Claims Procedure), where that procedure is available in respect of the claim.

### **5 Recording of application**

5. The Registrar must, in respect of every claim form received, record in writing (which may be in electronic form) the name and address of the claimant, the name and address of the respondent named in the claim form, the date of the claim form, nature of the claim and any other relevant details.

### **6 Rejection or acceptance of application**

6. (1) Where the claim does not come within the scope of the European Small Claims Procedure, the Registrar must so inform the claimant, where possible by the same means by which the claimant's application was sent to the Registrar (and if not possible, by registered or recorded delivery post) and must advise the claimant that he or she may:

- (a) withdraw the claim or
- (b) commence proceedings on the claim as ordinary civil proceedings before the Court in accordance with the provisions of Order 40, rule 4 or, where applicable, Order 41B, rule 2 or 3.

(2) Where the claimant withdraws the claim, the Registrar must refund any fee.

(3) Where the Registrar considers the information provided by the claimant to be inadequate or insufficiently clear, or that the claim form is not filled in properly, he or she must send to the claimant (by the means by which the claim form was sent to him) a request in the Form B in the Annex to the EU Regulation to be completed by the claimant and returned to the Registrar by the same means within the period specified by the Registrar, which must be 21 days of the sending by the Registrar of Form B, or such longer period as the Registrar may specify.

(4) Where the Registrar considers the completed claim to be clearly unfounded or the application inadmissible, he or she may refer the claim to the District Court, which may dismiss the claim or make such other order as it deems necessary in the circumstances.

(5) In such circumstances the Registrar must notify the claimant of the Court's order and refund any fee, where appropriate.

(6) Where the Registrar considers the properly filled in claim comes within the scope of the European Small Claims Procedure, he or she must, within the time limit prescribed by Article 5.2 of the EU Regulation:

- (a) complete Part I of the standard answer form, in the Form C in the Annex to the EU Regulation, and
- (b) serve by registered post (or, where relevant, as otherwise permitted by rule 3) on the respondent copies of the claim form, of the supporting documents (where applicable) and the answer form.

### **7 European small claim admitted by respondent**

7. (1) If the respondent accepts the claim in full, he or she must forward to the Registrar, together with the duly completed answer form or answer in other written form, payment by cheque, postal order(s) or money order(s), made payable to the claimant, or payment by other permitted means, for the full amount claimed.

(2) On receipt of such payment the Registrar must transmit same to the claimant. If the respondent's acceptance of the claim is conditional, (e.g. on goods being returned by the claimant), the Registrar must so inform the claimant and seek his agreement to comply with any condition specified by the respondent.

### **8 Respondent's response if claim not admitted**

8. (1) Any counterclaim by the respondent must be accompanied by the appropriate fee.

(2) The Registrar must dispatch copies of the respondent's response, including the completed Part II of the standard answer form or answer in other written form and the supporting documents provided (where applicable) to the claimant by registered post (or, where relevant, as otherwise permitted by rule 3) within the time limit prescribed by Article 5(4) of the EU Regulation.

(3) The Registrar must dispatch copies of any counterclaim and any supporting documents provided (where applicable) to the claimant by registered post (or, where relevant, as otherwise permitted by rule 3) within the time limit prescribed by Article 5(6) of the EU Regulation.

(4) Where, in his or her standard answer form or answer in other written form, the respondent claims that the value of a non-monetary claim exceeds the limit of €2,000 set out in Article 2(1) of the EU Regulation, the Registrar must refer the proceeding to the District Court, which may make such order as it deems necessary in the circumstances.

(5) Where a counterclaim exceeds the limit set out in Article 2(1) of the EU Regulation the claim and counterclaim must not proceed in the European Small Claims Procedure and the Registrar must so inform the claimant and the respondent, where possible by the same means by which the claimant's application was sent to the Registrar (and if not possible, by registered or recorded delivery post).

(6) The Registrar must advise the claimant and the respondent that he or she may commence proceedings on the claim (or counterclaim) as ordinary civil proceedings before the court in accordance with the provisions of Order 39 or, where applicable, Order 41B, rule 2 or 3.

(7) The Registrar must notify the claimant of any order made by the Court under this rule.

(8) The provisions of this Order apply to any counterclaim made under the European Small Claims Procedure as they apply to any European Small Claim, with any necessary modifications.

## **9 Settlement**

9. (1) Whenever he or she considers it appropriate, the Registrar must, in accordance with Article 12(3) of the EU Regulation, seek to reach a settlement between the parties. In that connection he or she may interview (in person or by such other means as he or she considers appropriate) the parties and any other person whom either party may wish him or her to hear. Where a settlement is reached, particulars of the settlement must be recorded in writing.

(2) Without prejudice to the generality of Article 14 of the EU Regulation, the Registrar may extend the time limits provided for in the EU Regulation where he or she is seeking to reach a settlement between the parties.

(3) Where the terms of a settlement are not complied with, the Registrar may, if requested so to do by the claimant, proceed to judgment against the other party in accordance with the provisions of rule 14.

## **10 Default**

10. (1) Where the respondent fails to return the answer form or deliver an answer in other written form to the Registrar within the 30 day period permitted by Article 5(3) of the EU Regulation, or where the claimant fails to respond to any counterclaim to the Registrar within the 30 day period permitted by Article 5(6) of the EU Regulation, judgment must be entered in default of answer in accordance with sub-rule (2).

(2) Where judgment in default is sought under sub-rule (1) in a claim or counterclaim for a liquidated amount, the claimant or respondent (as the case may be) may swear an affidavit of debt and file the affidavit with the Registrar, and the Registrar must proceed to judgment in accordance with the provisions of Order 47 as if the claim form or counterclaim (as the case may be) were a claim notice issued and served.

(3) The forms of affidavit and judgment provided in Order 47 may, with necessary modifications, be used for that purpose.

(4) The claimant may call to or contact the Court office if assistance is needed in completing the forms.

(5) In a case to which sub-rule (2) applies, where requested by the claimant or (as the case may be) the respondent, the Registrar must issue to the claimant or (as the case may be) the respondent a certificate in the amount in which judgment was given in accordance with rule 14.

(6) Where a claim to which no answer form or answer in other written form is returned within the time permitted or a counterclaim to which no response is provided within the time permitted is for an unliquidated amount, the Registrar must refer the proceedings to the Court in accordance with rule 11.

## **11 Referral to Court for hearing**

11. (1) Within the time prescribed by Article 7(1) of the EU Regulation, or such extended time as the Registrar has permitted, where the Registrar is satisfied that a settlement of the proceedings cannot be reached, the Registrar must refer the proceedings to the Court and must notify the parties of the place, date and time at which the proceedings are listed before the Court.

(2) The Registrar must make himself or herself available to assist the Court in considering the proceedings.

(3) When the proceedings are before the Court, the Court may:

- (a) direct in accordance with Article 7(1)(a) of the EU Regulation that further details concerning the claim be demanded from the parties within a period of time specified by the Court, and on the giving of same or the expiry of the time permitted for the giving of same, the proceedings be re-entered before the Court;
- (b) direct in accordance with Article 7(1)(b) of the EU Regulation that evidence be taken and give directions for the taking of evidence in accordance with Article 9 of the EU Regulation as are appropriate;
- (c) direct in accordance with Article 7(1)(c) of the EU Regulation that the parties be summoned to an oral hearing and give such directions for the conduct of the oral hearing in accordance with Article 8 of the EU Regulation or otherwise as are appropriate;
- (d) where a party has requested an oral hearing and the Court considers that with regard to the circumstances of the case, an oral hearing is not necessary for the fair conduct of the proceedings, refuse such request and specify the reasons for such refusal, and may proceed to give judgment on the claim and any counterclaim;

(e) where no party has requested an oral hearing and the Court does not consider that an oral hearing is necessary, proceed to give judgment on the claim and any counterclaim.

(4) The Registrar must notify the parties, or relevant party, in writing, of:

(a) any further details concerning the claim demanded and the time within which they are to be provided;

(b) the place, date and time at which (and where relevant, any communications technology by means of which) evidence is to be taken or any oral hearing is to be conducted;

(c) the reasons for refusal of any request for an oral hearing;

(d) any judgment given on any claim and/or counterclaim.

(5) The Registrar must make himself or herself available to assist the Court at the taking of any evidence or any oral hearing, if requested by the Court so to do.

## 12 Translations

12. (1) If a document (other than a document referred to in Article 6(1) of the EU Regulation) is submitted to the Court in a language other than Irish or English, the Registrar may, where a translation of that document appears to be necessary for giving a judgment on the claim or counterclaim, require the party which provided the document to provide a translation of that document in accordance with Article 6 of the EU Regulation within such time as the Registrar specifies, which must ordinarily not exceed 21 days.

(2) Where a party to a European Small Claim refuses to accept a document because it is not in:

(a) the official language of the Member State addressed, or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected or to where the document is to be dispatched, or

(b) a language which the addressee understands,

the Registrar must so inform the other party and request that other party to provide a translation of the document concerned within such time as the Registrar specifies, which must ordinarily not exceed 21 days.

(3) Where, on request, a party has failed to comply with the translation requirements set out in Article 6(2), Article 6(3)(a) or Article 6(3)(b) of the EU Regulation, as may be appropriate, the Registrar must proceed as



if the document concerned were never received by the Court, or by the other party, as the case may be.

### **13 Costs**

13. The Court may make such order for costs in proceedings on any European Small Claim as it considers appropriate, consistently with the requirements of Article 16 of the EU Regulation.

### **14 Issue of documents by Court following judgment**

14. (1) Where a judgment is given in a case to which this Order relates, the Court must (a) issue the appropriate form of judgment or order; (b) notify the party against whom it was issued and/or (c) where requested by the claimant or (as the case may be) the respondent to the claimant or respondent a certificate (in the Form D in the Annex to the EU Regulation) for the amount of any judgment given on the claim or counterclaim, at no extra cost.

(2) The Registrar must record in writing (which may be in electronic form) particulars of the request for, issue of and notification of any judgment or order and the issue of any such certificate.

### **15 Application to vary or set aside**

15. (1) A respondent against whom judgment by default has been given in a European Small Claim in accordance with the provisions of this Order may apply by notice of motion (in Form 44.01, Schedule C with the necessary modifications) to the Court in the Court area in which the order was obtained for an order to set aside and/or vary the said order on any of the grounds specified in Article 18(1) of the EU Regulation.

(2) The notice of motion must be served on the claimant or solicitor for the claimant, if any, within ten clear days from the date on which the giving of the default judgment came to the knowledge of the respondent.

(3) Service of the notice of motion does not operate as a stay of proceedings.

(4) The Court may declare sufficient the service of the notice of motion actually effected.

(5) The notice of motion must set out clearly and briefly the grounds specified in Article 18(1) of the EU Regulation relied on by the party applying.

(6) The Court may, on the hearing of the motion, grant or refuse the application on the basis of the provisions of Article 18(1) of the EU Regulation.

(7) Where the Court rejects the review on the basis that none of the grounds referred to in Article 18(1) of the EU Regulation applies, the judgment remains in force.

(8) Where the Court decides that the review is justified for one of the reasons laid down in Article 18(1) of the EU Regulation, then the judgment given in the European Small Claims Procedure must be set aside and is null and void.

## **16 Enforcement**

16. (1) Subject to the EU Regulation, the provisions of Orders 51 and 51A, insofar as they may be applied to a judgment of the District Court, may be applied to a judgment given in the European Small Claims Procedure in a Member State, and any reference in Orders 51 and 51A to a “judgment” includes, where the context so admits, a reference to such a judgment. In such a case, any relevant Form in Schedule C which contains a reference to a judgment, or order may be adapted to refer to such a judgment.

(2) Where an application is made by a creditor for enforcement in accordance with Order 51, rule 3 in respect of a judgment given in the European Small Claims Procedure in a Member State other than the State, the judgment creditor must, in addition to lodging with the Clerk the summons in duplicate and statutory declaration, provide to the Clerk the documents referred to in Article 21(2) of the EU Regulation.

## **17 Application for refusal of enforcement**

17. (1) Where enforcement of a judgment given in the European Small Claims Procedure in a Member State other than the State under these Rules is sought in accordance with rule 16, the party against whom enforcement is sought may apply to the Court for an order refusing enforcement on the basis of the provisions of Article 22(1) of the EU Regulation, or for an order staying or limiting enforcement on the basis of the provisions of Article 23 of the EU Regulation.

(2) An application under sub-rule (1) must be by notice of motion in the Form 53B.02 Schedule C. The notice of motion must specify the grounds alleged for the relief sought.

(3) Unless the Court, being satisfied as to the urgency of the application, otherwise permits, a copy of the notice of motion must be served by the respondent:

- (a) not later than seven days before the return date of the motion, on the claimant and
- (b) on such other persons as the Court directs.

## **18 Notifications by Registrar**

18. Any notification or notice given by the Registrar to a party to a European Small Claim for any purpose set out in the EU Regulation must be given by the means by which that party has communicated to him (or to the address or contact detail provided for that party) and must include particulars and any record number for the European Small Claim concerned.

## **19 Hearings by videolink or telephone**

19. (1) For the purposes of this Order, the contemporaneous linking together by telephone or other means of electronic communication of persons entitled or permitted to be present in the Court at a hearing must be deemed to constitute a hearing before the Court, and all the provisions in these Rules as to hearings apply to such hearing, provided that:

- (i) each of the persons taking part in such a hearing is able to hear, and speak to, each of the other persons taking part; and
- (ii) at the commencement of such a hearing each such person acknowledges his presence and that he or she accepts that the proceedings will be deemed to be a hearing before the Court.

(2) A person may not cease to take part in a hearing conducted in accordance with this rule by disconnecting his telephone or other means of communication unless he or she has previously obtained the express consent of the Judge or Registrar and a person must be conclusively presumed to have been present at all times during the hearing unless he or she has previously obtained the express consent of Judge or Registrar to leave the hearing.”

### SCHEDULE 3

#### SCHEDULE OF COSTS

<b>1. Solicitors' costs in civil debt claims</b>		
<b>Amount due at date of issue of the claim notice</b>	<b>If amount due is paid within ten days of service of claim notice</b>	<b>If amount due is not paid within ten days of service of claim notice</b>
	€	€
Not exceeding €3,000	78	130
Exceeding €3,000 and not exceeding €6,000	156	260
Exceeding €6,000 and not exceeding €9,000	234	390
Exceeding €9,000 and not exceeding €12,000	312	520
Exceeding €12,000 and not exceeding €15,000	390	650
<p>The above scale of costs (1) is in every instance exclusive of and in addition to all actual and necessary outlay.</p> <p>If the claim notice is defended the costs of the successful party are in accordance with the contract, breach of contract and tort scale for assessment of damages.</p>		

<b>2. Solicitors' costs in contract, breach of contract and tort proceedings and in claims for damages unconnected with contract</b>				
<b>Amount due at the date of issue of claim notice or, (as the case may be) the amount decreed for debt</b>	<b>Costs if settled without necessity for appearance</b>	<b>Costs of judgment (decree) if case not defended</b>	<b>Costs of judgment (decree) if case defended (assessment of damages)</b>	<b>Costs of judgment (decree/ dismiss) if case defended (liability)</b>
	€	€	€	€
Not exceeding €3,000	300	500	650	750
Exceeding €3,000 and not exceeding €6,000	600	1,000	1,300	1,500
Exceeding €6,000 and not exceeding €9,000	900	1,500	1,950	2,250
Exceeding €9,000 and not exceeding €12,000	1,200	2,000	2,600	3,000
Exceeding €12,000 and not exceeding €15,000	1,500	2,500	3,250	3,750
<p>The above scale of costs (2):</p> <ul style="list-style-type: none"> <li>— is in every instance exclusive of and in addition to all actual and necessary outlay;</li> <li>— applies to actions for wrongful detention brought by virtue of section 33(3) of the Courts (Supplemental Provisions) Act 1961, according to the value of the goods as determined by the Court;</li> <li>— applies to actions for wrongful detention arising out of a hire-purchase transaction.</li> </ul>				

<b>3. Solicitors' costs in landlord and tenant (ejectment) proceedings</b>				
<b>Amount due at the date of issue of claim notice or, (as the case may be) the amount decreed for debt</b>	<b>Costs if settled before without necessity for appearance</b>	<b>Costs of judgment (decree) if case not defended</b>	<b>Costs of judgment (decree) if case defended (assessment of damages)</b>	<b>Costs of judgment (decree/dismiss) if case defended (liability)</b>
	€	€	€	€
Not exceeding €3,000	180	300	390	450
Exceeding €3,000 and not exceeding €6,000	360	600	780	900
Exceeding €6,000 and not exceeding €9,000	540	900	1,170	1,350
Exceeding €9,000 and not exceeding €12,000	720	1,200	1,560	1,800
Exceeding €12,000 and not exceeding €15,000	900	1,500	1,950	2,250

The above scale of costs (3):

- is in every instance be exclusive of and in addition to all actual and necessary outlay;
- does not apply to ejectment proceedings brought before the Court by summons pursuant to section 15 of the Summary Jurisdiction (Ireland) Act 1851; section 10 of the Summary Jurisdiction (Ireland) Amendment Act 1871 or sections 81, 84, 85 and 86 of the Landlord and Tenant (Ireland) Act 1860 — in such proceedings costs shall be in the discretion of the Court and shall not exceed €110.00 in any case unless the Court shall, for special reason, otherwise order;
- applies to ejectment proceedings brought before the Court on civil summons pursuant to section 82 of the Civil Bill Courts (Ireland) Act 1851 as applied to the District Court by section 17 of the Courts of Justice Act 1928.

<b>4. Solicitors' costs in proceedings under the Enforcement of Court Orders Acts 1926 to 2009</b>	
<b>Costs in relation to Instalment Orders</b>	
<b>Amount due</b>	
	€
Not exceeding €3,000	150
Exceeding €3,000 and not exceeding €6,000	300
Exceeding €6,000 and not exceeding €9,000	450
Exceeding €9,000 and not exceeding €12,000	600
Exceeding €12,000 and not exceeding €15,000	750
Exceeding €15,000	825 or such greater amount as the Court thinks proper

The above scale of costs (4) is in every instance exclusive of and in addition to all actual and necessary outlay.

<b>5. Solicitors' costs in proceedings for compensation under section 15 of the Housing (Private Rented Dwellings) Act 1982</b>		
<b>Amount of compensation awarded or, in case of dismiss, amount of compensation claimed</b>	<b>Costs if case not defended</b>	<b>Costs if case defended</b>
	€	€
Not exceeding €3,000	441	735
Exceeding €3,000 and not exceeding €6,000	882	1,470
Exceeding €6,000 and not exceeding €9,000	1,323	2,205
Exceeding €9,000 and not exceeding €12,000	1,764	2,940
Exceeding €12,000 and not exceeding €15,000	2,205	3,675
The above scale of costs (5) is in every instance exclusive of and in addition to all actual and necessary outlay.		

<b>6. Solicitors' costs in proceedings for recovery of possession under section 16 of the Housing (Private Rented Dwellings) Act 1982</b>				
<b>Annual rent</b>	<b>Costs if settled without necessity for appearance</b>	<b>Costs if case not defended</b>	<b>Costs if case defended</b>	<b>Costs of judgment for respondent (dismiss)</b>
	€	€	€	€
Not exceeding €3,000	113	270	450	450
Exceeding €3,000 and not exceeding €6,000	225	540	900	900
Exceeding €6,000 and not exceeding €9,000	338	810	1,350	1,350
Exceeding €9,000 and not exceeding €12,000	450	1,080	1,800	1,800
Exceeding €12,000 and not exceeding €15,000	563	1,350	2,250	2,250
The above scale of costs (6) is in every instance exclusive of and in addition to all actual and necessary outlay.				

<b>7. Solicitors' costs, where awarded under the Malicious Injuries Acts 1981 and 1986 to a respondent or to or against a ratepayer</b>	
<b>Amount of compensation claimed</b>	<b>Costs</b>
	€
Exceeding €125 and not exceeding €250	15
Exceeding €250 and not exceeding €750	90
Exceeding €750 and not exceeding €1,400	140
Exceeding €1,400	230
The above scale of costs (7) is in every instance exclusive of and in addition to all actual and necessary outlay.	

<b>8. Solicitors costs in summary proceedings for the recovery of rates</b>		
<b>Amount sued for</b>	<b>Costs if settled without necessity for appearance</b>	<b>Costs after hearing</b>
	€	€
Not exceeding €1,100	26	52
Exceeding €1,100 and not exceeding €2,200	33	66
Exceeding €2,200 and not exceeding €3,300	55	110
Exceeding €3,300 and not exceeding €5,500	66	132
Exceeding €5,500 and not exceeding €11,000	87.50	175
Exceeding €11,000	110	220 or such other amount as the Court thinks proper
The above scale of costs (8) is in every instance exclusive of and in addition to all actual and necessary outlay.		

<b>9. Miscellaneous additional charges</b>	
	€
Interim applications on notice (to include all Notices of Motion)	500
Applications under section 63 of the Civil Liability Act 1961	600
Rulings in respect of Injuries Board offers (e.g. minors)	1,000
Each additional respondent (separately represented)	500

<b>10. Solicitors' costs in consent proceedings to which section 4(c) of the Courts Act 1991 relates</b>
Where proceedings of the kind mentioned in paragraph A of section 77 of the Courts of Justice Act 1924 are brought before the District Court and:
(i) the amount claimed in the proceedings exceeds €15,000, and,
(ii) pursuant to the proviso to section 77A of the Courts of Justice Act 1924 (inserted by section 4(c) of the Courts Act 1991), the necessary parties to the proceedings sign the prescribed form of consent, and
(iii) the Court in determining the proceedings awards an amount in excess of €15,000,
the successful party may be allowed costs in accordance with the foregoing scales 1 to 9 in respect of the first €15,000 of the award and, in addition, a sum which represents 5% of the amount by which the award exceeds €15,000.
Where the proceedings are dismissed, the defendant may be allowed costs similarly calculated on the amount claimed.

**11. Solicitors' costs in actions transferred from the High Court or the Circuit Court**

(1) Where an action, other than an action to which paragraph (2) relates, has been remitted or transferred to the District Court:

- (a) by the High Court pursuant to section 25 of the Courts of Justice Act 1924, or  
 (b) by the Circuit Court pursuant to section 15(1) of the Courts Act 1991,

and the Court, in determining the matter, makes an order in favour of the claimant, the claimant may not recover any greater costs than the appropriate costs as set out in the above scales which he or she would have been entitled to recover if the action had originally been commenced in the District Court.

If the claimant fails to prove the claim, the respondent is entitled, in addition to any costs which may be allowed to him or her under the above scales, to a minimum sum of €100.00 or such greater sum as the Judge may in the circumstances consider proper.

(2) Where an action so remitted or transferred is an action for unliquidated damages and the Court, pursuant to section 15(2) of the Courts Act 1991 (as amended by section 20 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013), makes an order awarding to a party to the action an amount in excess of €15,000 but not exceeding €30,000, the successful party may be allowed costs in accordance with the above scales in respect of the first €15,000 of the award and, in addition, a sum which represents 5% of the amount by which the award exceeds €15,000. Where such an action is dismissed, the respondent may be allowed costs similarly calculated on the amount claimed.

**12. Schedule of outlays**

Miscellaneous outlays to include postage, photocopying, registered post, fax and sundries to be allowed in accordance with Order 53, rule 2.

Amount due at the date of issue of claim notice  
 —(in the case of debt claims)  
 —(in the case of Instalment Orders)

Amount awarded  
 —(in cases of contract, breach of contract and tort proceedings and in claims for damages unconnected with contract)

Annual rent  
 —(in the case of landlord and tenant (ejectment) proceedings begun by claim notice)  
 —(in proceedings for the recovery of possession under section 16 of the Housing (Private Rented Dwellings) Act 1982)

Amount of compensation awarded  
 —(in proceedings for compensation under section 15 of the Housing (Private Rented Dwellings) Act 1982)

Amount of compensation claimed  
 —(in cases under the Malicious Injuries Acts 1981 and 1986)

Amount sued for  
 —(in summary proceedings for the recovery of rates)

Not exceeding €5,000	€50 plus VAT
Exceeding €5,000 and not exceeding €10,000	€100 plus VAT
Exceeding €10,000 and not exceeding €15,000	€150 plus VAT



<b>13. Counsel's Fees</b>	
<b>(1) in any defended case of contract, breach of contract, tort and claims for damages unconnected with contract</b> <b>(2) in any defended case of ejection for overholding or non-payment of rent</b> <b>(3) where awarded under the Malicious Injuries Acts 1981 and 1986 to a respondent or to or against a ratepayer</b>	
To the claimant's counsel when the amount recovered, or to the respondent's counsel when the amount claimed, in any defended case of contract, breach of contract, tort and claims for damages unconnected with contract—	
To the claimant's or respondent's counsel when the annual rent in any defended case of ejection for overholding or non-payment of rent—	
When the amount of compensation claimed under the Malicious Injuries Acts 1981 and 1986—	
	€
Exceeds €2,000 and does not exceed €3,000	500
Exceeds €3,000 and does not exceed €4,000	550
Exceeds €4,000 and does not exceed €5,000	600
Exceeds €5,000 and does not exceed €7,000	750
Exceeds €7,000 and does not exceed €9,000	800
Exceeds €9,000 and does not exceed €11,000	850
Exceeds €11,000 and does not exceed €13,000	950
Exceeds €13,000 and does not exceed €15,000	1,050

**SCHEDULE 4****“ORDER 10****SERVICE OF DOCUMENTS IN CRIMINAL PROCEEDINGS****1 Definitions**

1. In this Order—

the “1851 Act” means the Petty Sessions (Ireland) Act 1851;

the “1986 Act” means the Courts (No. 3) Act 1986 (No. 33 of 1986);

the “1991 Act” means the Courts Act 1991 (No. 20 of 1991).

a “document” means a “District Court document” within the meaning of section 7(1) of the Courts Act 1964.

**2 Service of summons in criminal proceedings**

2. (1) In proceedings by way of summons in which the prosecutor is the Director of Public Prosecutions or an officer or member of the Garda Síochána, a Minister of the Government or a Minister of State or an officer of either such Minister, or an officer of the Revenue Commissioners, a document shall be served by a member of the Garda Síochána, or by any other person or any other means authorised by statute or these Rules or otherwise as directed by the Court.

(2) A member of the Garda Síochána shall not serve a document in any proceedings in which that member is the person instituting the proceedings.

**3 Mode of service — summary jurisdiction: section 22, Courts Act 1991**

3. In a case of summary jurisdiction to which section 22(1) of the Courts Act 1991 relates, a summons may, subject to the provisions of that section, be served upon the person to whom it is directed—

(a) by sending, by registered prepaid post, a copy thereof in an envelope addressed to that person at his or her last known residence or most usual place of abode or at his or her place of business in the State, or

(b) by delivery by hand, by a person (other than the person on whose behalf it purports to be issued) authorised by these Rules in that behalf, of a copy thereof in such an envelope as aforesaid.

**4 Application to set aside**

4. Where the Court has proceeded to hear a complaint or accusation to which a summons referred to in rule 3 relates and such person claims not to have had notice of the summons or the hearing to which it relates, application pursuant

to section 22(6) of the said Act to have the proceedings set aside may be made in accordance with that section and rule 5.

### **5 Application to have proceedings set aside**

5. (1) Where a summons has been issued under section 11(2) of the 1851 Act or section 1 of the 1986 Act and the Court has proceeded to hear the complaint or accusation to which the summons relates and the person to whom the summons is directed intends to apply pursuant to section 22(6)(a) of the 1991 Act to have the proceedings set aside on the ground that he or she did not receive notice of the summons or of the hearing to which the summons relates, such application may be made at any sitting of the Court for the transaction of summary business for the Court area wherein the hearing to which the summons relates has taken place.

(2) Where the application is not made within 21 days after the summons or hearing comes to the notice of the applicant, a further period within which to make the application may be sought *ex parte* at any sitting of the Court for the relevant Court area.

(3) Notice of an application to have proceedings set aside must be in the Form 10.5, Schedule B, and when completed, must forthwith be lodged with the Clerk for the relevant Court area.

(4) On receipt of the notice, the Clerk must enter and, having regard to the provisions of section 22(6)(b) of the 1991 Act, must list the matter for hearing and give, or send by ordinary post, to the applicant and the opposing party named in the proceedings a notice in the Form 10.6, Schedule B.

(5) The order of the Court on hearing the application must be in the Form 10.7, Schedule B.

### **6 Application of certain provisions of Order 41**

6. The provisions of Order 41, rules 3 to 19 inclusive as regards mode of service, service on particular parties, proof of service and related matters, apply with the necessary modifications in criminal proceedings in the Court.”

**“ORDER 12****MISCELLANEOUS PROVISIONS****1 — GENERAL****1 Division of duties among Clerks**

1. (1) Where more than one Clerk is assigned to a Court area, every such Clerk assigned is competent to perform all and any of the duties of a Clerk of the Court.

(2) The Principal Clerk or Chief Clerk, may divide the duties of the Clerk among the several Clerks assigned to a Court area or Court district, as he or she thinks proper.

**2 Minute Book and record of decisions**

2. (1) The Clerk for each Court area must keep a book, to be known as the Minute Book, in which must be entered all the cases, other than those in which particulars of the offences are entered on charge sheets, which are for hearing at sittings of the Court for that Court area.

(2) To enable effect to be given to the decision of the Court and to enable an order to be drawn up if required, the Judge must, on pronouncing his or her decision, cause a memorandum of that decision to be made in the minute book or charge sheet, as appropriate, and the Clerk must attach a note of the decision to the relevant court-file. No alteration may be made to the Judge’s memorandum except by the Judge who made it.

**3 Practice and procedure in Dublin Metropolitan District**

3. Notwithstanding the provisions of these Rules, any practice or procedure now in force in the Dublin Metropolitan District may continue in that Court district either in addition to or in substitution for any practice or procedure prescribed by these Rules.

**4 Hearings otherwise than in public**

4. Where the hearing of any application is required by law to be held otherwise than in public or the hearing of any application or evidence is directed to be held otherwise than in public or with certain persons excluded from the Court, and the hearing would in the opinion of the Judge be more conveniently and expeditiously disposed of in Chambers than in Court, the hearing may be held and any such application made to and determined by the Judge in Chambers.

## 2 — RECOGNISANCES

### 5 Recognisances by bodies corporate

5. (1) A body corporate may, in any case in which a recognisance is required by these Rules, enter into the recognisance by its agent (who must be a director, manager or other responsible officer of the body corporate) duly authorised for that purpose.

(2) The authority given to an agent to enter a recognisance for a body corporate must empower the agent to bind the body corporate to perform and comply with all and any of the conditions of the recognisance and must acknowledge the legal liability of the body corporate in the event of its failing to perform or comply with any condition of the recognisance.

(3) A copy of a resolution of the board of directors or the managing committee of the body corporate purporting to be signed by the chairman for the time being of the board or committee must be taken to be *prima facie* evidence of the appointment and authority of the agent.

(4) The Court may, if it thinks fit, exempt a body corporate from the necessity for entering into a recognisance.

### 6 Exemptions from entering into recognisance

6. Any provision of these Rules requiring an appellant to the Circuit Court or an applicant for a case stated to enter into a recognisance does not apply to:

- (a) the Attorney General;
- (b) the Director of Public Prosecutions;
- (c) the National Consumer Agency;
- (d) any Minister of the Government or any Minister of State or officer of either such Minister;
- (e) an officer or member of the Garda Síochána acting in an official capacity, or
- (f) an officer of the Revenue Commissioners acting in an official capacity.

## 3 — SCHEDULES AND FORMS

### 7 Schedules are part of these Rules

7. The schedules to these Rules must be taken to be part of the Rules and all forms in the Schedules must be deemed valid and sufficient in law, and are the proper forms to be used, even when other and different forms are provided by any enactment under which the proceedings are brought.

**8 Departure or omission does not vitiate form if content sufficient in substance**

8. No departure from any prescribed form, or omission of any of the particulars required by any prescribed form, or use of words other than those indicated in any prescribed form, vitiates or makes void the proceedings or matter to which the form relates, if the form or the words is, in the opinion of the Court, otherwise sufficient in substance and effect.

**9 Reference to and modification of forms**

9. (1) Where mention is made in these Rules of a form immediately followed by a number and a Schedule, the reference is to be read as a reference to a form denoted by that number in the Schedule concerned.

(2) Every reference to a form must be construed to mean a reference to such modification of the form concerned as may be suitable for use in the particular proceeding or matter.

(3) It is sufficient in any form to state sums of money, dates and other numbers either in figures or in words.

(4) Where no form is provided by statute or by rules of Court the parties or the Court may frame the form, using as guides the forms contained in the Schedules to these Rules.

**4 — MISCELLANEOUS PROVISIONS IN CRIMINAL PROCEEDINGS****10 Abridgements, amendments, etc in criminal proceedings**

10. (1) Subject to and in accordance with any provision of statute, a Judge may in any criminal proceedings:

(a) whenever he or she thinks fit abridge or extend the time provided by these Rules for the service or lodgment for entry of any summons, provided that a note of the abridgement or extension of the time for service must be endorsed on the original summons and on the copy issued for service and must be signed by the Judge;

(b) amend any summons.

(2) Notwithstanding sub-rule (1), any application to state a case under section 2 of the Summary Jurisdiction Act 1857 must be made within the time prescribed by that Act.

**11 Issue of duplicate Court instruments in criminal proceedings**

11. Where it appears to the Court that an original order or warrant in criminal proceedings has been lost or destroyed or that the same is improperly in the hands of the opposite party or of a person not entitled to it, or that it is unavailable to the parties by reason of its being in the hands of the County Registrar, Governor of a prison or other officer entitled to hold the same, the Court may

issue a duplicate of the order or warrant. Application for such duplicate shall be made on forty-eight hours' notice to the opposite party and to the Clerk. Where the Judge permits the issue of the duplicate, there shall be clearly written or stamped upon the face of the same the word "Duplicate".

## **12 How notice may be given to a Garda Superintendent**

12. Where under these Rules notice is required to be given to a Superintendent of the Garda Síochána the notice may be given by leaving the notice with the Superintendent or with the officer in charge of the Garda Síochána station for which the Superintendent acts or by forwarding the notice by prepaid post to the Superintendent and, in the case of notice by post, the notice is deemed to be received on the day of the actual receipt of the notice by the Superintendent.

## **13 All notices to be in writing**

13. All notices required by these Rules to be given in criminal proceedings must be in writing unless expressly authorised by the Court to be otherwise given.

## **14 Court to determine practice where not prescribed**

14. Where no provision is made in any statute or these Rules governing practice and procedure in a particular criminal proceeding, the Court may adopt such procedure as it consider appropriate consistently with the requirements of justice.

## **15 Effect of non-compliance**

15. Subject to any provision of an enactment, non-compliance with these Rules does not render any criminal proceedings void, but in case of non-compliance, the Court may direct that the proceedings be treated as void, or that they be set aside in part as irregular, or that they be amended or otherwise dealt with in such manner and on such terms consistent with statute as the Court thinks fit."

**SCHEDULE 5**

**FORMS**

**39.01**

Notice of intention to proceed

Schedule C  
O.39 r. 3

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

**NOTICE OF INTENTION TO PROCEED**

TAKE NOTICE that the \*claimant \*respondent intends to proceed as and from the expiry of one month from the date following service of this notice.

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

Signed: .....

\*(Solicitor for) \*Claimant \*Respondent

To: \*(Solicitor for) \*Respondent \*Claimant

At.....

To: District Court Clerk

At.....

\*Delete where inapplicable



39.02

Notice of listing of proceedings

Schedule C  
O.39 r. 2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

TAKE NOTICE THAT the above civil proceedings have been listed at the sitting of the District Court to be held at..... on the..... day of ..... 20 .... at ..... a.m./p.m.

\*The listing is to explain the failure of the parties to proceed and you are required either to provide a sufficient explanation of the failure to proceed in writing to this office at least seven days before the date listed above or to attend at the date and time listed above to explain the failure to proceed.

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

Signed:.....  
District Court Clerk assigned to the above Court area.

To \*(Solicitor for) claimant  
of.....

To \*(Solicitor for) respondent  
of.....

\* Delete where inapplicable

**40.01**

Claim notice: general damages not exceeding €15,000

Schedule C  
O.40, r. 5

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

**CLAIM NOTICE**

This claim notice is issued at the request of the claimant(s), who makes a claim in the District Court to recover against the respondent damages not exceeding €15,000 for [*insert description of claim, e.g. breach of contract, negligence, etc*]

**Particulars of first claimant:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
*Solicitor	
Address for service of documents	

*[Repeat particulars for second and any subsequent claimant]*

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
*Solicitor (if known)	
Occupation (if known)	
Address for service of documents (if known)	

*[Repeat particulars for second and any subsequent respondent]*

**STATEMENT OF CLAIM**

*[Set out in numbered paragraphs a statement of all material facts on which the claimant relies, including necessary particulars of such fact, which must include the place where and the date when the claim arose, but not the evidence by which*

*those facts are to be proved. Specify in that statement the specific provisions of any enactment that is relied on and the amount or other relief or remedy sought. Examples are provided at the end of this form.]*

**LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH THE CLAIMANT WILL RELY AT TRIAL**

	Document	Date	Description
1	<i>e.g. letter of offer</i>	<i>1 September 2013</i>	<i>Letter of offer from the claimant to the respondent</i>
2	<i>e.g. contract</i>	<i>10 September 2013</i>	<i>Contract signed by the claimant and the respondent</i>
Etc			

(A) IF YOU DISPUTE THE CLAIM and wish to defend the proceedings, then you must give, or send by post, to the claimant or claimant’s solicitor at the address for service mentioned above an appearance and defence in Form 42.01, Schedule C of the District Court Rules, not later than 28 days after the service on you of this claim notice, and at the same time file a copy of your appearance with the District Court Clerk at the address below.

(B) IF YOU ADMIT THE CLAIM, you should contact the claimant or claimant’s solicitor within 10 days after the service on you of this claim notice to make arrangement to agree payment of the claim and costs, all further proceedings will be stayed, you need not attend court and you will avoid further costs.

IF YOU DO NOT ACT IN ACCORDANCE WITH (A) OR (B) ABOVE you will be held to have admitted the claim and the claimant may apply for judgment to the District Court and if judgment is given, proceed to execution.

Signed:.....

\*(Solicitor for) Claimant

To the respondent(s) at the address(es) given above

This claim notice is issued at ..... on the ..... day of ..... 20.... by .....by the District Court Clerk assigned to the above Court area and district

\*Delete where inapplicable

### Sample statements of claim

#### **Breach of contract: goods or services**

1. The claimant is the owner and operator of a restaurant at 1 Main Street, Dublin 4.
2. The respondent is a supplier of used motor vehicles. The respondent operates his business from a showroom 6 New Street, Dublin 4, within the Court area and Court district mentioned above.
3. On 2 January 2013, the claimant visited the respondent's showroom with a view to purchasing a van for use in deliveries to the claimant's customers.
4. The claimant was shown by the respondent a 2007 Excelsior A van with registration number 2007 D 888888. The respondent assured the claimant that the van had 40,000 kilometres on the clock and was in excellent working order.
5. The claimant purchased the van for €8,000 and paid by bank draft.
6. On 1 February 2013, the van broke down outside the claimant's premises. The claimant has the van examined by a mechanic who advised him that seriously defective repairs had been carried out to the engine about two years previously, which left the van in a dangerously defective condition and that the cost of returning the van to a roadworthy condition would be approximately €5,250. The mechanic also advised the claimant that the van had been on the road for approximately 120,000 kilometres.
7. The claimant contacted the respondent on 3 February 2013 to return the van and be repaid the price the claimant had paid. The respondent refused to accept the return of the van or to repay the claimant.
8. Since the respondent has refused to accept the return of the van, the claimant has had to rent a van for use in his business at a cost of €100 per week. The claimant has also incurred mechanic's fees of €400.
9. The claimant claims damages for breach of contract and/or breach of warranty.
10. The claimant relies on section 13 of the Sale of Goods and Supply of Services Act 1980.

#### **Negligence**

1. The claimant is the owner and operator of a restaurant at 1 Main Street, Dublin 4.
2. The respondent is the owner of a 2007 Excelsior A van with registration number 2007 D 888888. The respondent lives at 6 New Street, Dublin 4, within the Court area and Court district mentioned above.

3. On 2 January 2013, the claimant's car, a 2009 Excelsior B with registration number 2009 D 777777, was parked outside his restaurant. At approximately 3.00 pm, the respondent was driving his van along Main Street, when it crashed into the claimant's car.

4. The claimant's car was severely damaged in the incident and was completely unroadworthy. The claimant had his car examined by a mechanic who advised him that serious damage had occurred to the driver's side bodywork, engine and electrics and that the cost of reinstating the car to its previous condition would be approximately €8,500.

5. Since the claimant has only third party insurance, he has not been able to fund the cost of these repairs and has had to rent a car for use in his business at a cost of €100 per week. The claimant has already incurred mechanic's fees of €200.

6. The claimant alleges that the incident and the damage sustained to the claimant's car were due to the respondent's negligence in his driving of his van.

7. The claimant claims damages for negligence and/or breach of duty (including breach of statutory duty).

## 40.02

Claim notice: debt claim not exceeding €15,000

Schedule C  
O.40, r. 5

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

## CLAIM NOTICE: DEBT CLAIM

This claim notice is issued at the request of the claimant(s), who makes a claim in the District Court to recover against the respondent damages not exceeding €15,000 for \*debt \*liquidated damages

**Particulars of first claimant:**

Name	
Address	*(in the above Court *(area) and district)
*Solicitor	
Address for service of documents	

*[Repeat particulars for second and any subsequent claimant]*

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
*Solicitor (if known)	
Address for service of documents (if known)	

*[Repeat particulars for second and any subsequent respondent]*

## STATEMENT OF CLAIM

*[Set out in numbered paragraphs a statement of all material facts on which the claimant relies, including necessary particulars of such fact, which must include the place where and the date when the claim arose, but not the evidence by which those facts are to be proved. Specify in that statement the specific provisions of any enactment that is relied on and the amount or other relief or remedy sought. An example is provided at the end of this form.]*

LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH  
THE CLAIMANT WILL RELY AT TRIAL

	Document	Date	Description
1	<i>e.g. letter of offer</i>	<i>1 September 2013</i>	<i>Letter of offer from the claimant to the respondent</i>
2	<i>e.g. contract</i>	<i>10 September 2013</i>	<i>Contract signed by the claimant and the respondent</i>
Etc			

(A) IF YOU DISPUTE THE CLAIM and wish to defend the proceedings, then you must give, or send by post, to the claimant or claimant’s solicitor at the address for service mentioned above an appearance and defence in Form 42.02, Schedule C of the District Court Rules, not later than 28 days after the service on you of this claim notice, and at the same time file a copy of your appearance with the District Court Clerk at the address below.

(B) IF YOU PAY THE AMOUNT of €..... and costs of €..... to the claimant or the claimant's solicitor within ten days and without filing and serving an appearance and defence you may avoid further costs.

IF YOU DO NOT ACT IN ACCORDANCE WITH (A) OR (B) ABOVE you will be held to have admitted the claim and the claimant may, without further notice to you, lodge an affidavit of debt in the District Court, obtain judgment and proceed to execution for the full amount claimed and costs.

Signed:.....

\*(Solicitor for) Claimant

To the respondent(s) at the address(es) given above

This claim notice is issued at ..... on the ..... day of ..... 20... by ..... the District Court Clerk assigned to the above Court area and district

\*Delete where inapplicable

### Sample statement of claim: debt claim

#### Outstanding invoices

1. The claimant is a wholesale supplier of food and ingredients to the catering industry, and operates his business from 1 Main Street, Dublin 4.
2. The respondent is the operator of a restaurant at 6 New Street, Dublin 4, within the Court area and Court district mentioned above.
3. The claimant has supplied food and ingredients to the respondent since 1997. Since 2012, the respondent's payments have been erratic and often considerably in arrears.
4. The claimant's claim is to recover against the respondent the sum of €9,500 being the amount due and owing to the claimant by the respondent pursuant to invoices issued in the course of business by the claimant to the respondent on foot of the respondent's account with the claimant for the supply of food and ingredients.
5. Despite demands made in writing (details of which are set out below), the respondent has failed, refused and/or neglected to pay the amount due and owing to the claimant of €9,500, which remains due and owing by the respondent to the claimant after all just credits and allowances.

#### PARTICULARS OF AMOUNT DUE

Date of invoice or payment	Amount invoiced €	Amount paid €	Balance due €
1 January 2013	4,000		4,000
20 January 2013		1,500	2,500
6 February 2013	1,200		3,700
26 February 2013	2,300		6,000
4 March 2013		500	5,500
9 April 2013	3,100		8,600
16 May 2013	2,400		11,000
2 June 2013		1,500	9,500
Total due			9,500



40.03

Consent

Schedule C  
O.40, r. 7

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

Courts of Justice Act 1924, section 77A

Courts Act 1991, section 4(c)

CONSENT

The claimant has begun civil proceedings in the Court against the respondent claiming [*insert description of claim from claim notice, e.g. breach of contract, negligence, etc*]

The civil proceedings are of the kind mentioned in section 77A of the Courts of Justice Act 1924 and the \*(amount claimed) \*(annual rent specified) of €....., is in excess of the monetary limit of €15,000 that applies for the time being under that section.

WE, \*(solicitor for) the claimant and \*(solicitor for) the respondent, HEREBY CONSENT AND AGREE to the exercise in these civil proceedings, by the Judge of the District Court assigned to the above Court area, of the jurisdiction conferred by the proviso (inserted by section 4(c) of the Courts Act 1991) to section 77A of the Courts of Justice Act 1924 to hear and determine the civil proceedings,

AND WE SIGN this consent in compliance with the terms of that proviso.

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

Signed:.....  
\*(Solicitor for) claimant

Signed:.....  
\*(Solicitor for) respondent

To: District Court Clerk at.....

\*Delete where inapplicable

**40A.01**

## Personal injuries summons

Schedule C  
O.40A, r.4

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

**PERSONAL INJURIES SUMMONS**

Civil Liability and Courts Act 2004, section 10

This personal injuries summons is issued at the request of the claimant(s), who makes a claim in the District Court to recover against the respondent damages not exceeding €15,000.

**Particulars of first claimant:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
PPSN	(if none, state "none")
*Solicitor	
Address for service of documents	

*[Repeat particulars for second and any subsequent claimant]***Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
Occupation (if known)	
*Solicitor (if known)	
Address for service of documents (if known)	

*[Repeat particulars for second and any subsequent respondent]*

## STATEMENT OF CLAIM

[A personal injuries summons must contain a statement entitled "Statement of Claim" which must

- (a) set out, in numbered paragraphs, full and detailed particulars of-
  - (i) the nature of the claim and of each allegation, assertion or plea comprising that claim;
  - (ii) the injuries to the claimant alleged to have been occasioned by the wrong of the respondent;
  - (iii) the acts of the respondent constituting the said wrong and the circumstances relating to the commission of the said wrong;
  - (iv) each instance of negligence by the respondent,
- (b) contain a schedule of full particulars of all items of special damage in respect of which the claimant is making a claim, and
- (c) give details of the basis upon which jurisdiction is claimed.

The following is a suggested format in which the statement of claim might be presented:

1. DESCRIPTION OF PARTIES

2. WRONG ALLEGED AGAINST THE RESPONDENT (OR AGAINST EACH RESPONDENT)

3. PARTICULARS OF THE ACTS OF THE RESPONDENT (OR OF EACH RESPONDENT) CONSTITUTING THE WRONG AND OF THE CIRCUMSTANCES RELATING TO THE COMMISSION OF THE WRONG

*(Full particulars should be set out)*

4. PARTICULARS OF EACH INSTANCE OF NEGLIGENCE BY THE RESPONDENT (OR BY EACH RESPONDENT)

*(Full particulars should be set out)*

5. PARTICULARS OF THE INJURIES TO THE CLAIMANT OCCASIONED BY THE WRONG OF THE RESPONDENT (OR OF EACH RESPONDENT)

6. RELIEFS CLAIMED

7. *The bringing of these personal injuries proceedings requires to be authorised in accordance with \*section 14 \*section 17 \*section 32 \*section 36 \*section 49 \*rules under section 46(3) of the Personal Injuries Assessment Board Act 2003 and these personal injuries proceedings have been authorised by the Personal*

*Injuries Assessment Board, under \*section 14 \*section 17 \*section 32 \*section 36 \*section 49 \*rules under section 46(3) by authorisation dated the .....day of .....20.... under reference number .....*

**Schedule**

**PARTICULARS OF ITEMS OF SPECIAL DAMAGE**

*(Full particulars should be set out. Add additional sheets if necessary)*

[If applicable, insert the particulars required by Order 39, rule 4 (1A)]

**LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH THE CLAIMANT WILL RELY AT TRIAL**

	Document	Date	Description
1	<i>e.g. letter</i>	<i>1 September 2013</i>	<i>Letter from the claimant to the respondent</i>
2			
Etc			

(A) IF YOU DISPUTE THE CLAIM and wish to defend the proceedings, then you must give, or send by post, to the claimant or claimant’s solicitor at the address for service mentioned above an appearance and defence in Form 40A.02, Schedule C of the District Court Rules, not later than 28 days after the service on you of this claim notice, and at the same time file a copy of your appearance with the District Court Clerk at the address below.

(B) IF YOU ADMIT THE CLAIM, you should contact the claimant or claimant’s solicitor within 10 days after the service on you of this claim notice to make arrangement to agree payment of the claim and costs, all further proceedings will be stayed, you need not attend court and you will avoid further costs.

IF YOU DO NOT ACT IN ACCORDANCE WITH (A) OR (B) ABOVE you will be held to have admitted the claim and the claimant may apply for judgment to the District Court and if judgment is given, proceed to execution.

Signed:.....

\*(Solicitor for) Claimant

To the respondent(s) at the address(es) given above

This personal injuries summons is issued at ..... on the ..... day of ..... 20.... by ..... the District Court Clerk assigned to the above Court area and district

\*Delete where inapplicable

**40A.02**

Personal injuries defence

Schedule C  
O.40A, r.7

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

**PERSONAL INJURIES APPEARANCE AND DEFENCE**

Civil Liability and Courts Act 2004, section 12

This personal injuries appearance is filed and this personal injuries appearance and defence is served by the respondent.

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
PPSN	
*Solicitor	*(if the respondent intends to defend in person, please state "in person")
Address for service of documents	

*[A personal injuries defence must contain a statement entitled "Grounds of Defence" which must:*

*(a) specify—*

- (i) the allegations specified, or matters pleaded, in the personal injuries summons of which the respondent does not require proof,*
- (ii) the allegations specified, or matters pleaded in the personal injuries summons of which he or she requires proof,*
- (iii) the grounds upon which the respondent claims that he or she is not liable for any injuries suffered by the claimant, and*

(iv) *where the respondent alleges that some or all of the personal injuries suffered by the claimant were occasioned in whole or in part by the claimant's own acts, the grounds upon which he or she so alleges, and*

(b) *contain full and detailed particulars of each denial or traverse, and of each allegation, assertion or plea, comprising the respondent's Defence and, where appropriate, a counter-schedule setting out the defence to items of special damage claimed by the claimant.*

*The following is a suggested format in which the defence might be presented:*

*1. THE RESPONDENT DOES NOT REQUIRE PROOF OF THE FOLLOWING ALLEGATIONS SPECIFIED OR MATTERS PLEADED IN THE PERSONAL INJURIES SUMMONS:*

*2. THE RESPONDENT REQUIRES PROOF OF THE FOLLOWING ALLEGATIONS SPECIFIED OR MATTERS PLEADED IN THE PERSONAL INJURIES SUMMONS:*

*3. THE GROUNDS UPON WHICH THE RESPONDENT CLAIMS THAT (S)HE IS NOT LIABLE FOR ANY INJURIES SUFFERED BY THE CLAIMANT ARE AS FOLLOWS:*

*\*4. THE GROUNDS UPON WHICH THE RESPONDENT CLAIMS THAT SOME OR ALL OF THE INJURIES SUFFERED BY THE CLAIMANT WERE OCCASIONED IN WHOLE OR IN PART BY THE CLAIMANT'S OWN ACTS ARE AS FOLLOWS:*

*5. DEFENCE TO RELIEFS CLAIMED BY THE CLAIMANT:*

*\*6. The bringing of these personal injuries proceedings requires to be authorised in accordance with \*section 14 \*section 17 \*section 32 \*section 36 \*section 49 \*rules under section 46(3) of the Personal Injuries Assessment Board Act 2003 and is not so authorised.*

### **Counter-schedule**

#### **DEFENCE TO ITEMS OF SPECIAL DAMAGE CLAIMED BY THE CLAIMANT**

*(add additional sheets if necessary)*

**LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH THE RESPONDENT WILL RELY AT TRIAL**

	Document	Date	Description
1	e.g. letter	3 September 2013	Letter from the respondent to the claimant
2			
Etc			

[If a counterclaim is made, the statement of counterclaim (in Form 40A.03) should be inserted here]

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

Signed:.....

\*(Solicitor for) Respondent

To the claimant(s) at the address(es) given in the personal injuries summons

This personal injuries appearance and defence was filed at.....on the ..... day of ..... 20.... with .....the District Court Clerk assigned to the above Court area and district.

\*Delete where inapplicable

**40A.03**

## Personal injuries counterclaim

Schedule C  
O.40A, r.7*[to be appended to the personal injuries defence]***PERSONAL INJURIES COUNTERCLAIM**

Civil Liability and Courts Act 2004, section 12

**STATEMENT OF COUNTERCLAIM***[A personal injuries counterclaim must contain a statement entitled “Statement of Counterclaim” which must*

- (a) set out, in numbered paragraphs, full and detailed particulars of—*
  - (i) the nature of the claim and of each allegation, assertion or plea comprising that claim;*
  - (ii) the injuries to the respondent alleged to have been occasioned by the wrong of the claimant;*
  - (iii) the acts of the claimant constituting the said wrong and the circumstances relating to the commission of the said wrong;*
  - (iv) each instance of negligence by the claimant,*
- (b) contain a schedule of full particulars of all items of special damage in respect of which the respondent is making a claim, and*
- (c) give details of the basis upon which jurisdiction is claimed.*

*The following is a suggested format in which the indorsement might be presented:***1. DESCRIPTION OF PARTIES****2. WRONG ALLEGED AGAINST THE CLAIMANT (OR AGAINST EACH CLAIMANT)****3. PARTICULARS OF THE ACTS OF THE CLAIMANT (OR OF EACH CLAIMANT) CONSTITUTING THE WRONG AND OF THE CIRCUMSTANCES RELATING TO THE COMMISSION OF THE WRONG***(Full particulars should be set out)***4. PARTICULARS OF EACH INSTANCE OF NEGLIGENCE BY THE CLAIMANT (OR BY EACH CLAIMANT)***(Full particulars should be set out)*



5. PARTICULARS OF THE INJURIES TO THE RESPONDENT OCCASIONED BY THE WRONG OF THE CLAIMANT (OR OF EACH CLAIMANT)

6. RELIEFS CLAIMED BY THE RESPONDENT

7. *The bringing of this personal injuries counterclaim requires to be authorised in accordance with \*section 14 \*section 17 \*section 32 \*section 36 \*section 49 \*rules under section 46(3) of the Personal Injuries Assessment Board Act 2003 and these personal injuries proceedings have been authorised by the Personal Injuries Assessment Board, under \*section 14 \*section 17 \*section 32 \*section 36 \*section 49 \*rules under section 46(3) by authorisation dated the .....day of .....20.... under reference number .....*

*Schedule*

*PARTICULARS OF ITEMS OF SPECIAL DAMAGE*

[conclude as in Form 40.02]

40A.04

Verifying affidavit

Schedule C  
O.40A, r.8

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

VERIFYING AFFIDAVIT

Civil Liability and Courts Act 2004, section 14

*[The title need not be repeated where the affidavit is endorsed on the pleading or other document]*

I, ..... of ....., the (*claimant, respondent or identify the capacity in which the affidavit is made*) in the above proceedings, aged eighteen years and upwards MAKE OATH and say as follows:

1. I beg to refer to the contents of the (*personal injuries summons, defence, reply, further information etc. — as the case may be*) delivered herein on behalf of the (claimant/ respondent) on the ..... day of ..... 20.... \*[upon which this affidavit is endorsed] \*[and upon a true copy of which marked “AB1” I have signed my name prior to the swearing hereof].

2. The assertions, allegations and information contained in the said (*personal injuries summons, etc.*) which are within my own knowledge are true. I honestly believe that the assertions, allegations and information contained in the said (*personal injuries summons, etc.*) which are not within my own knowledge are true.

3. I am aware that it is an offence to make a statement in this affidavit that is false or misleading in any material respect and that I know to be false or misleading.

SWORN before me [name in capitals]  
at.....

in the County on the ..... day of ..... 20....,

by the said .....

\*[who is personally known to me]

\*[who is identified to me by ..... who is personally known to me]

\*[whose identity has been established to me before the taking of this affidavit by the production to me of

†passport no. .... issued on the .....day of..... by the authorities of ....., which is an authority recognised by the Irish Government

†national identity card no..... issued on the .....day of.....by the authorities of .....which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement

†Aliens Passport no. .... issued on the .....day of..... by the authorities of ..... which is an authority recognised by the Irish Government

†refugee travel document no. .... issued on the .....day of..... by the Minister for Justice and Equality

† travel document (other than refugee travel document) ..... issued on the .....day of.....by the Minister for Justice and Equality

.....  
Deponent

.....  
\*Commissioner for Oaths/ \*Practising Solicitor

\*Delete if inapplicable

†Where relevant, select appropriate option and delete others.

This affidavit is filed with the District Court Clerk at..... on the ..... day of ..... 20.... by .....on behalf of the.....in the above proceedings.

40A.05

Notice of motion  
(personal injuries action)

Schedule C  
O.40A, r.9

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF MOTION

Civil Liability and Courts Act 2004

TAKE NOTICE that the above-named \*claimant/\*respondent will apply to the District Court sitting at ..... on the ..... day of ..... 20.... at .....a.m./p.m., for the following relief pursuant to the Civil Liability and Courts Act 2004 (hereinafter the “Act”) or otherwise in personal injuries proceedings:

\*An order under section 9(2) of the Act for the extension of the period for the service of (*state matter in which extension of time is sought*)

\*An order under section 10(3) of the Act for a stay or dismissal of the proceedings by reason of the claimant’s failure to provide the information necessary to comply with section 10 of the Act

\*An order under section 11(3) of the Act for a stay or dismissal of proceedings by reason of the claimant’s failure to provide further information requested under section 11(1) or section 11(2) of the Act

\*An order under section 12(3) of the Act for a stay of proceedings or for judgment by reason of a respondent’s failure to provide the information necessary to comply with section 12 of the Act

\*A direction of the Court under section 15 of the Act that a mediation conference be held

\*An order for the delivery of further and better particulars by the \*claimant/\*respondent

\*An order allowing evidence in the action to be given by affidavit, under section 19 of the Act

\*An order appointing an approved person to carry out any investigation and to give evidence in the action, under section 20 of the Act

The grounds for the application are as follows:..... *[set out in summary the grounds of the application, e.g. the respondent has requested the claimant to provide information required to comply with section 10 of the Act on .....20... and the claimant has failed to provide it].*

Particular legal provisions relied on in the application..... *[identify any particular legal provisions relied on in the application, e.g. the respondent relies on section 10 of the Act].*

The application is supported by the affidavit of ..... sworn on .....20.....

Signed.....  
Solicitor for the \*claimant/\*respondent

To: District Court Clerk at .....

And: ..... Solicitor for the \*claimant/\*respondent

of .....

This notice of motion has been filed with the District Court Clerk at .....  
and issued on the ..... day of ..... 20....

\*delete where applicable

40A.06

Notice as to terms

Schedule C  
O.40A, r.11

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE AS TO TERMS

Civil Liability and Courts Act 2004, section 17

TAKE NOTICE that for the purposes of section 17 of the Civil Liability and Courts Act 2004 the \*claimant/\*respondent is willing to settle the above-entitled civil proceedings on the following terms:

TERMS OTHER THAN THOSE AS TO COSTS:

TERMS AS TO COSTS:

[or]

TAKE NOTICE that for the purposes of section 17 of the Civil Liability and Courts Act 2004 the respondent is not prepared to pay any sum of money to the claimant in settlement of above-entitled civil proceedings.

Signed: .....

Date: ..... 20.....

To: .....  
Solicitor for the \*claimant/\*respondent

And to: District Court Clerk at

.....

\*delete where inapplicable

40A.07

Notice of application for approval of Injuries Board assessment

Schedule C  
O.40A, r.13

District Court Area of

District No.

Record number:

In the matter of the Personal Injuries Assessment Board Act 2003 and

In the matter of an application relating to A.B., a \*Child \*Person of Unsound Mind, as claimant to the Injuries Board of ..... by C.D., acting as \*next friend \*committee on behalf of the said A.B.

.....of.....in the above Court \*(area and) district  
.....Respondent

NOTICE OF APPLICATION FOR APPROVAL OF INJURIES BOARD ASSESSMENT

Personal Injuries Assessment Board Act 2003, section 35

A claim has been made on behalf of A.B. against ..... as respondent and the assessment under section 20 of the Personal Injuries Assessment Board Act 2003 of the claim has been accepted, subject to the assessment being approved under section 35 of the Personal Injuries Assessment Board Act 2003.

TAKE NOTICE that an application will be made to the District Court sitting at ..... on the ..... day of ..... 20.... at .....a.m./p.m., to approve the assessment under section 35 of the Personal Injuries Assessment Board Act 2003.

Signed: .....  
\*(Solicitor for the) \*next friend \*committee

To: .....  
\*(Solicitor for the) respondent

To: District Court Clerk at  
.....

This notice of application has been filed with the District Court Clerk at ..... and issued on the ..... day of ..... 20....

\*delete where inapplicable

40A.08

Notice of application by assessors

Schedule C  
O.40A, r.14

District Court Area of

District No.

Record number:

In the matter of an application to the Personal Injuries Assessment Board by  
..... Claimant

..... of ..... Applicant

..... of ..... in the above Court \*(area and) district .....Respondent

NOTICE OF APPLICATION

Personal Injuries Assessment Board Act 2003, section 27

WHEREAS a request was made on ..... 20..... under section \*26(1) \*26(2) of the Personal Injuries Assessment Board Act 2003 to you, the respondent, by assessors assigned by the Personal Injuries Assessment Board the performance of functions under Chapter 2 of Part 2 of the Personal Injuries Assessment Board Act 2003

\*to furnish to them such records, documents, or other information in your possession or control as they reasonably requested for the purpose of—

\*(a) verifying any item of loss alleged by the above-named claimant in his/her relevant claim

\*(b) complying with the provisions of any enactment that requires specified amounts to be deducted or specified matters to be taken account of in the making of an assessment of damages

\*to furnish to them for the purpose specified in section 26(3) of the Personal Injuries Assessment Board Act 2003 relevant particulars in relation to a mechanically propelled vehicle contained in a database that is maintained for the purposes of any Community act.

AND WHEREAS you have \*failed/\*refused to comply with the said request.

TAKE NOTICE that I will apply at the sitting of the District Court to be held at ..... on the ..... day of ..... 20.... at..... a.m./p.m. for an order under section 27(2) of the Personal Injuries Assessment Board Act 2003, directing you to comply with the said request.



Signed: .....  
(Solicitor for the) Applicant

To: The above named respondent of .....

To the District Court Clerk,  
District Court Office at .....

This notice of application has been filed with the District Court Clerk at  
..... and issued on the ..... day of ..... 20....

\*Delete where inapplicable

**40B.01**

Landlord and tenant claim notice: recovery of possession of premises

Schedule C  
O.40B, r. 4

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

**LANDLORD AND TENANT CLAIM NOTICE**

This landlord and tenant claim notice is issued at the request of the claimant(s), who makes a claim in the District Court against the respondent for recovery of possession of premises at.....in the above Court \*(area and) district.

**Particulars of first claimant:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
*Solicitor	
Address for service of documents	

*[Repeat particulars for second and any subsequent claimant]*

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
*Solicitor (if known)	
Occupation (if known)	
Address for service of documents (if known)	

*[Repeat particulars for second and any subsequent respondent]*

**Particulars of premises and tenancy:**

Full address of premises	*(in the above Court *(area) and district)
Name of landlord(s)	
Name of tenants(s)	
Nature of tenancy or arrangement by which respondent is in possession of the premises (specify if in writing)	
Is the tenancy required to be registered in the private residential tenancies register maintained under section 127 of the Residential Tenancies Act 2004-	Yes/No
Is the tenancy registered in the private residential tenancies register maintained under section 127 of the Residential Tenancies Act 2004-	Yes/No
Particulars of registration under section 127 of the Residential Tenancies Act 2004	
Rent	€.....[Specify whether per week/month/year, etc]
Is it alleged that the tenancy has been brought to an end, and if so how?	
If non-payment of rent is claimed, specify the amount of rent due, and the date up to which that rent was due	€.....up to the .....day of .....20...

**STATEMENT OF CLAIM**

*[Set out in numbered paragraphs a statement of all material facts on which the claimant relies, including necessary particulars of such fact, which must include the place where and the date when the claim arose, but not the evidence by which those facts are to be proved. Specify in that statement the specific provisions of any enactment that is relied on and the amount or other relief or remedy sought. Examples are provided at the end of this form.]*

**LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH THE CLAIMANT WILL RELY AT TRIAL**

	Document	Date	Description
1	e.g. letting agreement	1 September 2013	Letting agreement between the claimant and the respondent
2			
Etc			

(A) IF YOU DISPUTE THE CLAIM and wish to defend the proceedings, then you must give, or send by post, to the claimant or claimant's solicitor at the address for service mentioned above an appearance and defence in Form 42.1, Schedule C of the District Court Rules, not later than 28 days after the service on you of this claim notice, and at the same time file a copy of your appearance with the District Court Clerk at the address below.

(B) IF YOU ADMIT THE CLAIM and without serving an appearance and defence and filing an appearance

\*PAY THE AMOUNT of €..... and costs of €..... to the claimant or the claimant's solicitor

\*ARRANGE to deliver possession of the premises and pay costs of €..... to the claimant or the claimant's solicitor

within 10 days after the service on you of this claim notice, all further proceedings will be stayed, you need not attend court and you will avoid further costs.

IF YOU DO NOT ACT IN ACCORDANCE WITH (A) OR (B) ABOVE you will be held to have admitted the claim and the claimant may apply for judgment to the District Court and if judgment is given, proceed to execution.

Signed:.....

\*(Solicitor for) Claimant

To the respondent(s) at the address(es) given above

This claim notice is issued at ..... on the ..... day of ..... 20.... by ..... the District Court Clerk assigned to the above Court area and district

\*Delete where inapplicable

### Sample statements of claim

#### Overholding

1. The claimant is the owner of a rental apartment at Flat A, 1 Main Street, Dublin 4 (the premises).
2. The respondent took possession of the premises as tenant of the claimant on 1 January 2012 under a one year lease dated 1 January 2012 between the claimant and the respondent at a monthly rent of €2.
3. The tenancy expired on 31 December 2012. The claimant did not wish to renew the tenancy as he intended to redevelop the premises.
4. The claimant served a written notice on the respondent on 21 January 2013 requiring him to vacate the premises immediately.
5. The respondent remained and remains in possession of the premises and has refused to deliver possession of the premises. No other person is in possession of any part of the premises. The claimant has not accepted rent from the respondent since 31 December 2012.
6. The claimant claims an order for possession of the premises and damages.

#### **Permissive Occupant: section 82 of the Landlord and Tenant Law Amendment (Ireland) Act 1860**

1. The claimant is the owner of premises at Flat A, 1 Main Street, Dublin 4 (the premises).
2. The respondent took possession of the premises as caretaker of the claimant on 1 January 2012 as the claimant planned to live abroad during 2012. The claimant allowed the respondent to occupy the premises rent-free in return for routine maintenance and ensuring the security of the premises.
3. The claimant returned to Ireland on 31 December 2012. The claimant wished to resume occupation of the premises as his principal residence.
4. The claimant served a written notice on the respondent on 1 January 2013 requiring him to vacate and deliver possession of the premises to the claimant immediately.
5. The respondent has refused or omitted to deliver possession of the premises to the claimant. The respondent has remained in possession of the premises.
6. Since 1 January 2013, the respondent has kept possession of the premises from the claimant. No other person is in possession of any part of the premises.
7. The claimant claims an order for possession of the premises and damages.

**Recovery of possession for non-payment of rent**

1. The claimant is the owner of a rental apartment at Flat A, 1 Main Street, Dublin 4 (the premises).
2. The respondent took possession of the premises as tenant of the claimant on 1 January 2011 under a written lease dated 1 January 2011 between the claimant and the respondent at a yearly rent of €20.
3. Rent was paid for 2011. The sum of €20 of rent, being one full year's rent due up to 31 December 2012 (state amount of rent and the last gale day up to which due) became and is still due to the claimant in respect of the premises.
4. The claimant served repeated notices on the respondent on 1 January 2013, 1 February 2013 and 1 March 2013 requiring him to pay the arrears of rent or to vacate the premises immediately.
5. The respondent has refused or failed to pay the arrears of rent and remained and remains in possession of the premises and has refused to deliver possession of the premises. No other person is in possession of any part of the premises.
6. The claimant claims an order for possession of the premises and damages.

40C.01

Notice of statutory application

Schedule C  
O.40C, r. 3

District Court Area of

District No.

Record number:

In the matter of section .....of the .....*[insert details of the relevant enactment relied on]*

\*On the Application of

.....of ..... Claimant

†Between

.....Claimant

..... Respondent

NOTICE OF APPLICATION

TAKE NOTICE that the above-named claimant will apply to the District Court sitting at..... on the ..... day of ..... 20... at .....a.m./p.m. (the “return date”) for:

(1) An order †(against the first-named respondent of.....in the county of .....(in the above Court \*(area and) district under the provision of the enactment stated above *[Specify the nature of the order sought, e.g. An order directing that the respondent ....., An order prohibiting the respondent from....., An order requiring the respondent to comply with the notice (a copy of which is attached) served on him by the applicant on the ..... day of ..... 20..., An order granting the applicant a licence to....., etc]*

‡(2) An order under [...] against the second-named respondent of.....in the county of .....[.....]

*[Insert any further or consequential relief or orders sought]*

The grounds for the application are as follows: ..... [set out in summary the grounds of the application].

Particular legal provisions relied on in the application ..... [identify any particular legal provisions relied on in the application].

LIST OF DOCUMENTS ON WHICH THE CLAIMANT WILL RELY  
AND COPIES OF WHICH ARE ATTACHED

	Document	Date	Description
1	<i>e.g. prohibition notice</i>	<i>1 September 2013</i>	<i>Prohibition notice issued by the claimant to the respondent</i>
2	<i>e.g. letter</i>	<i>1 September 2013</i>	<i>Letter by the claimant sending the prohibition notice to the respondent</i>
Etc			

Signed: .....

\*(Solicitor for the) claimant

To: District Court Clerk at .....

†And: ..... \*(Solicitor for the) respondent

of .....

This notice of application has been filed with the District Court Clerk at ..... and issued to the above return date on the ..... day of ..... 20....

\*where the application is *ex parte* or no relief is sought against any other person

† where orders or other relief is sought against any respondent in the application

‡delete where inapplicable



40D.01

Notice of appeal to District Court

Schedule C  
O.40D, r. 3

District Court Area of

District No.

Record number:

In the matter of section .....of the .....*[insert details of the relevant enactment relied on]*

Between

..... Appellant

..... Respondent

TAKE NOTICE that the above-named appellant, of..... will appeal at the sitting of the District Court to be held at..... on the ..... day of ..... 20... at .....a.m./p.m. from the \*notice \*decision \* direction of the respondent, of ..... \*served \*given on the ..... day of ..... 20... at ..... \*in the above Court \*(area and) district aforesaid under section ..... of the ..... (*title of enactment*)

whereby .....(*give details of the notice, decision or direction appealed from*)

And the appellant will apply for [*Specify any further or consequential relief or orders sought in accordance with the enactment e.g. An order granting the applicant a licence to....., etc*]

The grounds for the appeal are as follows: ..... [*set out in summary the grounds of the appeal*].

Particular legal provisions relied on in the appeal ..... [*identify any particular legal provisions relied on in the appeal*].

LIST OF DOCUMENTS ON WHICH THE APPELLANT WILL RELY  
AND COPIES OF WHICH ARE ATTACHED

	Document	Date	Description
1	<i>e.g. prohibition notice</i>	<i>1 September 2013</i>	<i>Prohibition notice issued by the respondent to the appellant</i>
2	<i>e.g. letter</i>	<i>1 September 2013</i>	<i>Letter by the respondent sending the prohibition notice to the appellant</i>
Etc			

Signed: .....

\*(Solicitor for the) appellant

To: District Court Clerk at .....

And: ..... \*(Solicitor for the) respondent

of .....

This notice of appeal has been filed with the District Court Clerk at.....and issued on the ..... day of ..... 20....

\*delete where inapplicable

40D.02

Notice of appeal to District Court: Mental Health Act 2001, section 65(1)

Schedule C  
O.40D, r. 7

District Court Area of

District No.

Record number:

In the matter of section 65 of the Mental Health Act 2001

Between

.....Appellant

.....Mental Health Commission ..... Respondent

TAKE NOTICE that the above-named appellant, ..... of  
..... being \*the registered proprietor \*the  
person intending to be the registered proprietor of an approved centre (within  
the meaning of section 63 of the above-named Act) situated at  
..... in the above Court district, will appeal at the sitting of  
the District Court to be held at ..... on the ..... day of ..... 20.... at  
..... a.m./p.m., from a decision of the above-named respondent, the Mental  
Health Commission, under section 64 of the Mental Health Act 2001 of which  
the appellant received notification on ..... 20.... (being within 21 days of  
the date of this appeal)

\*to refuse to register the said centre

\*to remove the said centre from the register

\*to attach a condition to the registration of the said centre

\*(to amend) \*(to revoke) a condition attached to the registration of the said  
centre

The grounds for the appeal are as follows: .....  
[set out in summary the grounds of the appeal].

Particular legal provisions relied on in the appeal .....  
[identify any particular legal provisions relied on in the appeal].

LIST OF DOCUMENTS ON WHICH THE APPELLANT WILL RELY  
AND COPIES OF WHICH ARE ATTACHED

	Document	Date	Description
1	<i>e.g. decision notice</i>	<i>1 September 2013</i>	<i>Decision issued by the respondent to the appellant</i>
2	<i>e.g. letter</i>	<i>1 September 2013</i>	<i>Letter by the respondent sending the decision to the appellant</i>
Etc			

Signed.....

\*(Solicitor for the) appellant

To: District Court Clerk at .....

And: ..... \*(Solicitor for the) respondent

of .....

This notice of appeal has been filed with the District Court Clerk at .....  
and issued on the ..... day of ..... 20....

\*delete where inapplicable

40E.01

Summons issued by a Clerk in a matter other than a criminal matter

Schedule C  
O.40E, r. 2

District Court Area of

District No.

Record number:

\*In the matter of .....

Between

..... \*Applicant/\*Claimant

..... (in the above Court \*(area and) district) ..... Respondent

SUMMONS

WHEREAS an application has been made to me by the above \*applicant/  
\*claimant on the ..... day of ..... 20.... to sign and issue this summons to  
you, the above-named respondent, in respect of the following matter claimed  
by the applicant against you, namely, [*insert particulars of the nature of the pro-  
ceedings or matter at issue, including a summary of any facts relied on and the  
provisions of any enactment relied on in making the application*]

THIS IS TO NOTIFY YOU that the matter will be entered before a sitting  
of the District Court for the above Court \*(area and) district to be held at  
..... on the ..... day of ..... 20.... at .....a.m./p.m.  
AND TO REQUIRE YOU to appear at the said sitting to answer to the said  
matter.

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

at the District Court Office

at.....

Signed: .....

District Court Clerk assigned to the  
above Court area.

To ..... of .....  
respondent

\*Delete where inapplicable

41.01

Statutory declaration of service of a document by registered post

Schedule C  
O.41, r. 14

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

STATUTORY DECLARATION AS TO SERVICE BY REGISTERED  
PREPAID POST

Courts Act 1964, section 7

I, ..... of .....  
aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I served this original document by

\*posting a true copy thereof at..... a.m./p.m. on the ..... day of  
..... 20.... at..... Post Office in a registered prepaid envelope  
addressed to the above \*respondent \*claimant at the address stated in this  
document.

\*by depositing a true copy thereof in an envelope at a.m./p.m. on the ..... day  
of ..... 20.... with ..... a postal service provider authorised to  
provide a registered items service and registered as such in the register main-  
tained under section 40 of the Communications Regulation (Postal Services)  
Act 2011.

2. The address to which the envelope was sent is the last known residence or  
most usual \*place of residence/\*place of business of the person to whom the  
document is directed.

3. The certificate of posting of the envelope is attached.

4. I am (the \*prosecutor/complainant/applicant/ in the proceedings) \*(authorised  
by the person bringing/appealing the proceedings to post the said envelope).

5. At the time of posting the envelope the original document was duly issued  
\*and stamped.

6. \*The envelope has not to this date been returned undelivered to the sender.

\*The envelope has been recorded as delivered on the ..... day of ..... 20....

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed: .....

Declared before me.....[name in capitals] a \*(Judge of the District Court) \*(commissioner for oaths/practising solicitor) \*(peace commissioner) \*(notary public) by the said .....

\*[who is personally known to me],
\*[who is identified to me by ..... who is personally known to me]
\*[whose identity has been established to me before the taking of this Declaration by the production to me of
†passport no. .... issued on the ..... day of ..... by the authorities of ....., which is an authority recognised by the Irish Government,
†national identity card no. .... issued on the ..... day of ..... by the authorities of .....which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,
†Aliens Passport no. (..... issued on the ..... day of ..... by the authorities of ..... which is an authority recognised by the Irish Government,
†refugee travel document no. .... issued on the ..... day of ..... by the Minister for Justice and Equality,
† travel document (other than refugee travel document) ..... issued on the ..... day of ..... by the Minister for Justice and Equality,]

at ..... this ..... day of ..... 20.....

Signed: .....

\*Judge of the District Court \*Commissioner for Oaths / \*Practising Solicitor / \*Peace Commissioner /\*Notary Public.

This statutory declaration has been filed with the District Court Clerk at ..... on the ..... day of ..... 20.....

**NOTE**

This declaration must be made not earlier than ten days after the day on which the envelope is posted.

\* Delete where inapplicable.
†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.
‡It is not necessary to repeat the title where a statutory declaration is endorsed on the document. Substitute the appropriate form of title to the civil proceeding concerned, where different.

41.02

Statutory declaration of service of a document by ordinary post

Schedule C  
O.41, r. 14

District Court Area of

District No.

Record number:

‡Between

.....Claimant

..... Respondent

STATUTORY DECLARATION AS TO SERVICE BY ORDINARY POST

I,..... of.....

aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I served this original document by posting a copy of the document at Post Office at.....a.m./p.m. on the ..... day of ..... 20...., in a prepaid envelope addressed to the above \*respondent/\*claimant at the address stated in the document \*(pursuant to an order of the Court dated the ..... day of ..... 20....).

\*2. The certificate of posting of the envelope is attached.

3. The envelope has not to this date been returned undelivered to the sender

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed:.....

Declared before me.....[name in capitals] a \*(Judge of the District Court) \*(commissioner for oaths/practising solicitor) \*(peace commissioner) \*(notary public) by the said .....

\*[who is personally known to me]

\*[who is identified to me by ..... who is personally known to me]

\*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. .... issued on the .....day of..... by the authorities of ....., which is an authority recognised by the Irish Government,

†national identity card no. .... issued on the .....day of.....by the authorities of .....which is an EU Member



State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. (..... issued on the .....day of..... by the authorities of ..... which is an authority recognised by the Irish Government,

†refugee travel document no. .... issued on the .....day of..... by the Minister for Justice and Equality,

† travel document (other than refugee travel document) ..... issued on the .....day of.....by the Minister for Justice and Equality,]

at ..... this .... day of ..... 20.....

Signed: .....

\*Judge of the District Court \*Commissioner for Oaths / \*Practising Solicitor / \*Peace Commissioner /\*Notary Public.

This statutory declaration has been filed with the District Court Clerk at..... on the .....day of .....20...

**NOTE**

This declaration must be made not earlier than ten days after the day on which the envelope is posted.

\* Delete where inapplicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

‡It is not necessary to repeat the title where a statutory declaration is endorsed on the document. Substitute the appropriate form of title to the civil proceeding concerned, where different.

41.03

Statutory declaration of personal service of a document

Schedule C  
O.41, r. 14

District Court Area of

District No.

Record number:

‡Between

.....Claimant

..... Respondent

STATUTORY DECLARATION AS TO PERSONAL SERVICE

I,..... of.....

aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I duly served this original document on the ..... day of ..... 20...., by handing a copy thereof to: .....

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed: .....

Declared before me ..... [name in capitals] a \*(Judge of the District Court) \*(commissioner for oaths/practising solicitor) \*(peace commissioner) \*(notary public) by the said .....

\*[who is personally known to me]

\*[who is identified to me by ..... who is personally known to me]

\*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. .... issued on the .....day of..... by the authorities of ....., which is an authority recognised by the Irish Government,

†national identity card no. .... issued on the .....day of.....by the authorities of .....which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. (..... issued on the .....day of..... by the authorities of ..... which is an authority recognised by the Irish Government,

†refugee travel document no. .... issued on the .....day of..... by the Minister for Justice and Equality,

† travel document (other than refugee travel document) ..... issued  
on the .....day of.....by the Minister for Justice and Equality,]

at.....this.....day of.....20.....

Signed:.....

\*Judge of the District Court \*Commissioner for Oaths / \*Practising Solicitor / \*Peace Commissioner /\*Notary Public.

This statutory declaration has been filed with the District Court Clerk  
at..... on the ..... day of ..... 20....

\* Delete where inapplicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

‡It is not necessary to repeat the title where a statutory declaration is endorsed on the document. Substitute the appropriate form of title to the civil proceeding concerned, where different.

41B.01

Notice of commencement of proceedings

Schedule C

O. 41B, rr. 5(2), 5(3), 5(6), 13(2), 13(3), 13(5), 19, 25(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 Judgments in Civil and Commercial Matters (the “Jurisdiction Regulation”)

\*The Brussels Convention of the European Communities on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, 1968 (the “Brussels Convention”)

\*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 (the “Lugano Convention”)

\*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 (the “Maintenance Regulation”)

\*The Rome Convention Between the Member States of the European Communities on the Simplification of Procedures for the Recovery of Maintenance Payments (the “Rome Convention”) and the Maintenance Act 1994

\*The New York Convention on the Recovery Abroad of Maintenance (the “New York Convention”) and the Maintenance Act 1994

\*The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children 1996 (the “Hague Child Convention”)

Record number:

NOTICE OF COMMENCEMENT OF LEGAL PROCEEDINGS

Between .....

of ..... Claimant  
and .....

of ..... Respondent

YOU ARE HEREBY GIVEN NOTICE that proceedings have been begun against you, the above respondent, \*domiciled \*habitually resident at

.....by the above claimant, \*(ordinarily resident) \*(carrying on a profession/business/ occupation) \*(habitually resident) at .....\*(in the above District Court area), claiming as follows:—

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

†IF YOU DISPUTE THE CLAIM and wish to defend the proceedings (whether for the purpose solely of contesting the jurisdiction of the court or on the merits of the claim), then you must give, or send by post, to the claimant or claimant’s solicitor at the address for service mentioned above an appearance and defence in Form 42.01, Schedule C of the District Court Rules, not later than \*five/\*six weeks after the service on you of this claim notice, and at the same time file a copy of your appearance with the District Court Clerk at the address below.

‡The proceedings have been listed for hearing at the sitting of the District Court to be held at..... on the ..... day of ..... 20.... at a.m./p.m. IF YOU DISPUTE THE CLAIM, you should serve and file an appearance and notice of intention to defend in the Form 42.02, Schedule C of the District Court Rules (as attached) and appear or arrange to be represented at that hearing.

IF YOU FAIL TO RESPOND 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 assigned to the above District Court area,  
District Court Office at.....

IRELAND

To .....

of .....

the above respondent.

The proceedings have been issued on .....20.... by the District Court Clerk at.....at the request of \*(the claimant) \*(..... solicitors of ....., solicitors for the claimant)

\*Delete where inapplicable

† For proceedings begun by claim notice

‡ For proceedings begun by a civil summons which is assigned a return date. Where the proceedings are begun by a civil summons which is assigned a return date, notice of appearance and intention to defend in Form 42.02, Schedule C of the District Court Rules must be attached.

**41B.02**

Certificate as to jurisdiction

Schedule C

O. 41B, rr. 5(3), 5(6), 13(3), 13(5)

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 Judgments in Civil and Commercial Matters (the “Jurisdiction Regulation”)

\*The Brussels Convention of the European Communities on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, 1968 (the “Brussels Convention”)

\*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 (the “Lugano Convention”)

\*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 (the “Maintenance Regulation”)

\*The Rome Convention Between the Member States of the European Communities on the Simplification of Procedures for the Recovery of Maintenance Payments (the “Rome Convention”) and the Maintenance Act 1994

\*The New York Convention on the Recovery Abroad of Maintenance (the “New York Convention”) and the Maintenance Act 1994

Record number:

**CERTIFICATE AS TO COURT’S JURISDICTION**

Between .....  
of ..... claimant  
and .....  
of ..... respondent

I ..... \*(solicitor for) the above claimant hereby certify:

1. That the claim(s) made in the document beginning the above 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) \*(the Maintenance Regulation),

2. That the claim(s) brought by the claimant \*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 .....

\*(Solicitor for the) claimant

\*Delete where inapplicable

\*\*for examples of clauses which might be inserted here see below

**\*\*Examples of clauses which may be used, as appropriate, in recital no. 2**

-The respondent is domiciled in the above District Court Area within the jurisdiction of the Honourable Court

- The claim against the respondent 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 respondent is a claim in tort and the harmful event giving rise to the cause of action occurred in the above District Court Area within the jurisdiction of the Honourable Court.

- The claim against the respondent relates to and/or arises out of the operation of a branch, agency or other establishment of the respondent which said branch, agency or establishment is situated in the above District Court Area within the jurisdiction of the Honourable Court.

- The claim against the respondent is a claim in which the claimant 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 above District Court Area within the jurisdiction of the Honourable Court.

- The claim against the respondent is brought by the claimant 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 claimant is ordinarily resident/carries on a profession, business or occupation in the above District Court Area within the jurisdiction of the Honourable Court.

- The claim against the respondent 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 respondent arises out of a contract/agreement made between the claimant and the respondent which provided, inter alia, that the Honourable Court was to have jurisdiction in relation to matters arising out of the contract/agreement 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 claimant's claim is a claim relating to maintenance obligations and the claimant 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 claimant's claim is a claim relating to maintenance obligations and the 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 claimant'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 claimant'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.



41B.03

Certificate as to judgment

Schedule C  
O.41B, r.9 (1) (b), 9 (2)

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.

Record number:

**CERTIFICATE BY DISTRICT COURT CLERK**

Between .....  
of ..... claimant  
and .....  
of ..... respondent

I, ....., the District Court Clerk assigned to the above District Court area, hereby certify as follows:-

1. That the above-named proceedings were in respect of a claim by the claimant against the respondent brought before this Court on ..... day of ..... 20....

by \*claim notice \*(civil) summons issued on the ..... day of ..... 20....  
claiming as follows.....

2. That \*(the document beginning the proceedings) \*(notice of the commence-  
ment of the proceedings) was served on the respondent on the ..... day of  
..... 20.... .. in the following manner- .....

3. That the respondent \*(appeared) \*(did not appear) at the hearing of the pro-  
ceedings.

4. That the respondent \*(was represented) \*(was not represented) at the hearing  
of the proceedings.

5. That the Court assumed jurisdiction in the proceedings pursuant to the pro-  
visions of Article(s) ..... of \*(the Jurisdiction Regulation) \*(the 1968  
Convention) \*(the Lugano Convention) above-named, on the grounds that-  
.....

6. That the Court gave judgment against the \*(respondent) \*(claimant) as fol-  
lows:-.....

\*7. That the 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 of ..... 20....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 of ..... 20....

10. That enforcement of the judgment is not for the time being stayed or sus-  
pended and that the time available for its enforcement has not expired.

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

Signed .....  
District Court Clerk assigned to the above District Court area,  
District Court Office at.....  
IRELAND

\*Delete where inapplicable

41B.04

Certificate that a judgment is enforceable

Schedule C  
O.41B, r.10 (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.

Record number:

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

Between .....  
of ..... claimant  
and .....  
of ..... respondent

I, ....., the District Court Clerk assigned to the above District Court area, hereby certify as follows:—

1. That the judgment given in the above proceedings at the sitting of the District Court held at..... on the ..... day of ..... 20.... is enforceable in this State, and

2. That on the ..... day of ..... 20.... a copy of the said judgment was served by registered/insured post on the respondent at the following address—.

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

Signed .....  
District Court Clerk assigned to the above District Court area,  
District Court Office at.....  
IRELAND

\*Delete where inapplicable

41B.05

Notice of registration

Schedule C  
O.41B, r. 21(3)(b)

ÉIRE  
IRELAND  
AN CHÚIRT DÚICHE THE DISTRICT COURT

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”).

And in the matter of 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 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

Record number:

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 assigned to 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 assigned to the above District Court area,  
District Court Office at.....  
IRELAND

PARTICULARS OF SUMS DUE

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

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

\*Delete where inapplicable  
‡State Court which made order

41B.06

Notice of registration

Schedule C  
O.41B, r. 23(2)

ÉIRE  
IRELAND  
AN CHÚIRT DÚICHE THE DISTRICT COURT

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”).

And in the matter of 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 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

Record number:

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 assigned to 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 assigned to the above District Court area,  
District Court Office at.....  
IRELAND

PARTICULARS OF SUMS DUE

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

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

\*Delete where inapplicable  
‡State Court which made order



41B.07

Certificate of arrears

Schedule C  
O.41B, r.20

ÉIRE  
IRELAND  
AN CHÚIRT DÚICHE THE DISTRICT COURT

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

**Certificate of arrears**

Between ..... of ..... Maintenance Creditor  
and ..... of ..... Maintenance Debtor

Record number:

I, ....., the District Court Clerk assigned to the above Court area, **HEREBY CERTIFY** that the sums payable to the District Court Clerk assigned to the above Court area by the above maintenance debtor now residing at ..... for transmission to the above 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 assigned to the above District Court area,  
District Court Office at.....  
IRELAND

\*Delete where inapplicable  
‡name of Court which made order

**41B.08**

Summons to vary or revoke a maintenance order

Schedule C  
O. 41B, r. 25

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 Section 9 of the Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act 1998

Record number:

**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. (the “return date”) on the hearing of an application by the above \*(maintenance creditor) \*(maintenance debtor) residing at ..... (in the above Court area and district) to have the maintenance order which was made on the ..... day of ..... 20.... by †..... whereby the above 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-

*(set out grounds of application)*

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, 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 return date, 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 assigned to the above District Court area,  
District Court Office at.....  
IRELAND

To .....  
of .....  
\*(in the above Court area and district)  
\*(maintenance creditor)  
\*(maintenance debtor)

This summons has been filed with the District Court Clerk at .....  
and issued to the above return date on the ..... day of ..... 20....

*Add two Notices of Intention to Appear as in Form 42.02*

\*Delete where inapplicable  
†name of court which made order  
†† give details of the order

41B.09

Notice of application for enforcement

Schedule C  
O. 41B, r. 29(2)

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

..... Applicant (the Central Authority)

.....of ..... (in the above Court District) ..... Respondent

Record number:

NOTICE OF APPLICATION FOR THE ENFORCEMENT OF A  
MAINTENANCE ORDER

Maintenance Act 1994, section 14(1)(b)

WHEREAS the above Central Authority has received a request from  
..... a central authority of a designated jurisdiction, on behalf  
of ..... of ..... a claimant, for the  
recovery of maintenance from you, the above respondent, residing in the State.

AND WHEREAS the request was accompanied by an order made by the  
..... court at ..... and the Cen-  
tral Authority is of the opinion that the order may be enforceable in the State,

TAKE NOTICE that the Central Authority will apply, under section 14(1)(b)  
of the Maintenance Act 1994, at the sitting of the District Court to be held  
at..... on the ..... day of ..... 20.... at ..... a.m./p.m. (the  
“return date”) for the enforcement of the order.

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

Signed:.....  
\*(Solicitor for the) Applicant

To: ..... of ....., respondent

This notice of application has been filed with the District Court Clerk at  
..... and issued to the above return date on the ..... day of  
..... 20....

NOTE

This notice must be accompanied by a copy of the documents mentioned in  
section 14(b) of the Maintenance Act 1994.

41B.10

Notice of application for the recovery of maintenance

Schedule C  
O. 41B, r. 30(2)

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

..... Applicant (the Central Authority)

.....of ..... (in the above Court District) ..... Respondent

Record number:

NOTICE OF APPLICATION FOR THE RECOVERY OF  
MAINTENANCE

Maintenance Act 1994, section 14(1)(c)(ii)

WHEREAS the above Central Authority has received a request from  
....., a central authority of a designated jurisdiction, on behalf of  
..... a claimant, for the recovery of maintenance from you, the  
above-named respondent, residing in the State,

AND WHEREAS

\*(the request was not accompanied by an order of a court mentioned in section  
14(1) of the Maintenance Act 1994)

\*(enforcement of an order of a court mentioned in section 14(1) of the Mainte-  
nance Act 1994, which accompanied the request, has been refused)

AND WHEREAS the amount of maintenance sought to be recovered does not  
exceed the maximum amount which the District Court has jurisdiction to award  
under the Family Law (Maintenance of Spouses and Children) Act 1976.

TAKE NOTICE that the Central Authority will make an application under  
section 14(1)(c)(ii) of the Maintenance Act 1994 to the District Court at a sitting  
of the Court to be held at ..... on the ..... day of ..... 20... at  
..... a.m./p.m. (the “return date”) for the recovery of maintenance in  
accordance with the request.

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

Signed:.....

\*(Solicitor for the) Applicant

To: ..... of ....., respondent

This notice of application has been filed with the District Court Clerk at ..... and issued to the above return date on the ..... day of ..... 20....

NOTE

This notice must be accompanied by a copy of the documents mentioned in section 14(6) of the Maintenance Act 1994.

\*Delete if inapplicable

41B.11

Deposition of respondent

Schedule C  
O. 41B, r. 31

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

..... Applicant (the Central Authority)

.....of ..... (in the above Court District) ..... Respondent

Record number:

In the matter of proceedings for the recovery of maintenance under section 14(1)(c)(ii) of the Maintenance Act 1994 at hearing before this Court

DEPOSITION OF RESPONDENT

The deposition of ..... of ..... the respondent in the above proceedings, who says upon oath as follows:—

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

Signed: .....

Deponent

Sworn before me at a sitting of the District Court held at.....on this ..... day of ..... 20....

Signed: .....

Judge of the District Court

**41B.12**

Deposition of claimant

Schedule C  
O. 41B, r. 33

ÉIRE  
IRELAND  
AN CHÚIRT DÚICHE THE DISTRICT COURT

District Court Area of

District No.

In the matter of an application by ..... of ..... (in the above Court District)  
..... Claimant

To the Central Authority in the State to recover maintenance from ..... of  
..... (in a designated jurisdiction) ..... Respondent

Record number:

DEPOSITION OF CLAIMANT

The deposition of.... of..... the claimant in the above proceedings, who says  
upon oath as follows:—

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

Signed: .....  
Deponent

Sworn before me at a sitting of the District Court held at ..... on this .....  
day of ..... 20....

Signed: .....  
Judge of the District Court

CERTIFICATE

The Court is satisfied that, and hereby certifies that the claimant's deposition  
sets forth facts from which it may be determined that the respondent concerned  
owes a duty to maintain the claimant.

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

Signed: .....  
Judge of the District Court



41B.13

Certificate

Schedule C  
O. 41B, r. 34

ÉIRE  
IRELAND  
AN CHÚIRT DÚICHE THE DISTRICT COURT

District Court Area of

District No.

In the matter of an Order \*(for the recovery of maintenance) \*(varying an order for the recovery of maintenance) made by this Court on the application of the claimant ..... of ..... Ireland, seeking to recover maintenance from the respondent ..... residing at ..... in a designated jurisdiction.

Record number:

CERTIFICATE

Maintenance Act 1994, section 15(3)(b)

I, ..... of ..... District Court Clerk assigned to the above District Court Area, hereby certify in accordance with section 15(3)(b) of the Maintenance Act 1994 as follows:—

1. That the time for lodging an appeal against the order in the above matter \*will expire \*has expired on the ..... day of ..... 20....
2. That notice of appeal \*has \*has not been entered.
3. \*That arrears to the amount of €..... remain unpaid under the order.
4. \*(That the respondent appeared at the hearing of these proceedings).
5. \*(That the respondent did not appear at the hearing of these proceedings, and attached hereto is a certified copy of the document establishing that notice of the institution of proceedings was served on the respondent).

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

Signed: .....  
District Court Clerk.

\* Delete where inapplicable

**41B.14**

Notice that evidence will be taken

Schedule C  
O. 41B, r. 35

ÉIRE  
IRELAND  
AN CHÚIRT DÚICHE THE DISTRICT COURT

District Court Area of

District No.

In the matter of proceeding for the recovery of maintenance and entitled .....  
-v- ..... in a court in a designated jurisdiction and a request from that court  
to obtain the evidence of a person residing in the State for the purposes of  
those proceedings.

Record number:

NOTICE OF TIME AND PLACE AT WHICH EVIDENCE IS TO BE  
TAKEN

Maintenance Act 1994, section 19(3)

WHEREAS the Judge of the District Court assigned to the above Court district  
has received a request from the Master of the High Court under section 19(2)  
of the Maintenance Act 1994 to take the evidence of ..... a person residing in  
Ireland at ..... in the above Court district for the purposes of proceedings at  
..... in a designated jurisdiction for the recovery of maintenance, a request  
to obtain such evidence having been made to the Central Authority by/on behalf  
of a court in a designated jurisdiction, namely, the ..... Court in .....

TAKE NOTICE that the said Judge will take evidence of the person concerned,  
namely, ..... on the..... day of ..... 20..., at a.m./p.m. at the following  
place, ..... when and where that person is hereby required to attend for  
the purpose of giving such evidence.

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

Signed .....

District Court Clerk.

To: ..... of: .....  
(the person concerned)

To: .....  
(the Central Authority)

To: The Master of the High Court

**41B.15**

Deposition

Schedule C  
O. 41B, r. 35

ÉIRE  
IRELAND

AN CHÚIRT DÚICHE                      THE DISTRICT COURT  
District Court Area of                      District No.

In the matter of proceedings for the recovery of maintenance and entitled .....  
-v ..... in a court in a designated jurisdiction namely the ..... court in .....  
and a request from that court to obtain the evidence of a person residing in the  
State, for the purposes of those proceedings

Record number:

DEPOSITION

Maintenance Act 1994, section 19(4)

The deposition of .... of ..... a person residing in Ireland at ....., who  
says upon oath as follows:—

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

Signed: .....

Deponent

Sworn before me at a sitting of the District Court held at ..... on this .....  
day of ..... 20....

Signed: .....

Judge of the District Court

41B.16

Notice of application for an order to provide information

Schedule C  
O. 41B, rr. 39(1), 40(1)

AN CHÚIRT DÚICHE

THE DISTRICT COURT

District Court Area of

District No.

..... Applicant (Central Authority)

.....of ..... in the above  
Court \*(area and) district, the \*person \*body to whom the order sought is to  
be directed

Record number:

NOTICE OF APPLICATION FOR AN ORDER TO PROVIDE  
INFORMATION

\*Maintenance Act 1994, section 20(2)

\*European Communities (Maintenance) Regulations 2011 (S.I. No. 274 of  
2011), regulation 19(2)

WHEREAS the above Central Authority considers that you the above \*per-  
son \*body (not being a \*person \*body mentioned in \*section 20(1) of the Main-  
tenance Act 1994 \*Regulation 19(1) of the European Communities  
(Maintenance) Regulations 2011) 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 Maintenance Act 1994 \*Regulation 19(2) of the European  
Communities (Maintenance) Regulations 2011

at the sitting of the District Court to be held at ..... on the ..... day of  
..... 20.... at ..... a.m./p.m. for an order that you provide to the Cen-  
tral 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)

This notice of application has been filed with the District Court Clerk at .....  
and issued to the above return date on the ..... day of ..... 20....

\*Delete where inapplicable

41B.17

Protection of Children (Hague Convention) Act 2000: Notice of Application for order

Schedule C  
O.41B, r.48

Protection of Children (Hague Convention) Act 2000

Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, signed at the Hague on the 19th day of October 1996 (the "Convention"), Article 24 \*Article 26

NOTICE OF APPLICATION

\*under Article 24 of the Convention to decide on the \*recognition \*non-recognition of a measure taken in another contracting state

\*under Article 26 of the Convention that a measure taken in another contracting state be declared enforceable or registered for the purpose of enforcement in the State

District Court Area of

District No.

..... Applicant

..... of ..... (in the said District Court District) Respondent\*

Record number:

WHEREAS a measure (within the meaning of the Convention) was taken on the ..... day of ..... 20... by ..... , an authority of the contracting state (the "*Contracting State Authority*" of ....., a contracting state of the Convention.

1. The measure taken by the Contracting State Authority relates to the following child\*(ren):

†Full name .....

Address .....

Date and place of birth (where available) .....

2. Summary of nature and effect of measure .....

3. The person\*(s) having rights referred to in Article 3 of the Convention in respect of the child\*(ren) and the nature of those rights are the following:

†Full name .....

Address .....

Date and place of birth (where available) .....

Nature of rights (e.g. parental responsibility, right of custody, right of access, guardianship) .....

Child\*(ren) to whom those rights relate .....

4. Where the request concerns the enforcement of a measure taken by the Contracting State Authority concerning access:

(i) practical arrangements for exercise of rights of access (to the extent stated in the measure),

Date and time .....

Start .....

End .....

Place .....

(ii) any specific obligations on the holders of parental responsibility .....

(iii) any specific obligations on the person with a right of access .....

(iv) any restrictions attached to the exercise of rights of access .....

5. Jurisdiction of the Contracting State Authority to take the measure concerned by reference to Chapter II of the Convention

6. Findings of fact on which the Contracting State Authority based its jurisdiction

7. \*The child\*(ren) concerned was/were given the opportunity to be heard by the Contracting State Authority

\*The measure was taken in a case of urgency and the child\*(ren) concerned was/were not given the opportunity to be heard by the Contracting State Authority

8. \*The following persons, having parental responsibility in respect of the child\*(ren) concerned, namely,....., \*was/\*were given the opportunity to be heard in relation to the measure by the Contracting State Authority.

\*The measure was taken in a case of urgency and the persons having parental responsibility in respect of the child\*(ren) concerned \*was/\*were not given the opportunity to be heard by the Contracting State Authority.

\*9. A later measure has/has not been taken in a non-contracting state of the habitual residence of the child.

\*10. The procedure provided in Article 33 of the Convention has been complied with.

11. According to the law of the Contracting State Authority, the measure is enforceable.

\*12.The above-named applicant is entitled to request \*recognition/\*non-recognition of the measure \*and that the measure be declared enforceable or registered for the purpose of enforcement in the State because .....

TAKE NOTICE that the above applicant will apply to the District Court sitting at ..... on the ..... day of ..... 20... at ..... a.m./p.m.:

\* to decide on the recognition of the said measure taken by the Contracting State Authority pursuant to Article 24 of the said Convention

\* to decide on the non-recognition of the said measure taken by the Contracting State Authority pursuant to Article 24 of the said Convention

\*to declare the said measure enforceable in the State pursuant to Article 26 of the said Convention and/or that the said measure be registered for the purpose of enforcement in the State.

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

Signed: .....  
(for) Applicant

To: District Court Clerk at .....

\*To:  
of:  
(Respondent)



This notice of application has been filed with the District Court Clerk at .....  
and issued to the above return date on the ..... day of ..... 20....

\*Delete where inapplicable

†repeat as necessary for each further child or person concerned

41B.18

Protection of Children (Hague Convention) Act 2000: Notice of Application to vary or revoke an order

Schedule C  
O.41B.r.50

Protection of Children (Hague Convention) Act 2000

Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, signed at the Hague on the 19th day of October 1996 (the "Convention"), Article 24 \*Article 26

NOTICE OF APPLICATION TO \*SET ASIDE \*DISCHARGE ORDER

District Court Area of

District No.

..... Applicant

..... of ..... (in the said District Court District) Respondent\*

Record number:

WHEREAS an order was made by the District Court sitting at ..... on the ..... day of ..... 20.... deciding that a measure (within the meaning of the Convention) taken by an authority in the contracting State of ..... and a copy \*(and certified translation thereof) of which is annexed to this notice of application

\*be recognised \*not be recognised in the State

\*declaring the said measure enforceable in the State

TAKE NOTICE that the \*applicant \*respondent of ..... will apply at the sitting of the District Court to be held at ..... on the ..... day of ..... 20.... at..... a.m./p.m. (the "**return date**") to have the order \*SET ASIDE \*DISCHARGED on the following grounds—

.....

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

Signed: .....

\*(Solicitor for)\*applicant/\*respondent

To: District Court Clerk at.....

To..... \*applicant/\*respondent of.....

This notice of application has been filed with the District Court Clerk at ..... and issued to the above return date on the ..... day of ..... 20....

\*Delete where inapplicable

41B.19

Protection of Children (Hague Convention) Act 2000: Certificate

Schedule C  
O.41B.r.51

Protection of Children (Hague Convention) Act 2000, section 6

Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, signed at The Hague on the 19th day of October 1996 (the "Convention")

District Court Area of

District No.

[Title of proceedings before the Court]

CERTIFICATE

I,..... of....., District Court Clerk assigned to the above-named District Court Area, hereby certify, as regards a measure taken by a Court in Ireland, namely the order of the District Court sitting at .....on the ..... day of ..... 20.... in the above proceedings, in accordance with section 6 of the Protection of Children (Hague Convention) Act 2000 as follows:—

(1) The nature of the above-named proceedings is .....

(2) The Court assumed jurisdiction under Article .....of the Convention

(3) The time for lodging an appeal against the measure \*will expire on/\*expired on the ..... day of ..... 20....

(4) \*Notice of appeal against the measure, \*(Notice to set aside the measure, the measure having been given in default of appearance, \*has been entered by ..... \*has not been entered

(5) The measure \*was \*was not taken in a case of urgency

(6) The measure not being taken in a case of urgency, the Court has taken such account of the wishes of the child concerned as it thought appropriate and practicable having regard to the child's age and understanding

\*Copies of the following documents relative to these proceedings, which I have certified as true copies are appended to this certificate:

\*Order of the District Court dated the ..... day of ..... 20....

\*Statutory declaration of service of ..... dated the ..... day of .....  
20....

establishing that notice of the institution of the proceedings was served on the  
respondent

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

Signed:.....  
District Court Clerk

\*Delete where inapplicable

**42.01**

Appearance and defence: general

Schedule C  
O.42, r. 3(1)

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

**APPEARANCE**

To: District Court Clerk:

The \*respondent intends \*respondents intend to defend this claim notice.

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
PPSN	
*Solicitor	*(if the respondent intends to defend in person, please state "in person")
Address for service of documents	

*[Repeat particulars for second and any subsequent respondent]*

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

Signed:.....  
\*(Solicitor for) Respondent

This appearance was filed at.....on the ..... day of ..... 20.... with ..... the District Court Clerk assigned to the above Court area and district

Note: This page only to be completed and filed with the appropriate District Court Clerk; the remainder of the document to be completed and served on the claimant or claimant’s solicitor.

\*Delete where inapplicable

-----

Schedule C  
O.42, r. 3(1)

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

APPEARANCE AND DEFENCE

The \*respondent intends \*respondents intend to defend this claim notice.

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
PPSN	
*Solicitor	*(if the respondent intends to defend in person, please state "in person")
Address for service of documents	

*[Repeat particulars for second and any subsequent respondent]*

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

Signed:.....  
\*(Solicitor for) Respondent

To the \*(solicitor for the) claimant(s) at the address(es) given in the claim notice

GROUND OF DEFENCE

*[Set out in numbered paragraphs a statement of the grounds of the respondent's defence, including all material facts on which the respondent relies, with necessary particulars of such fact.*

*Grounds of defence must state which of the facts stated in the claimant's statement of claim are admitted; denied or not admitted. Where a fact stated in a statement of claim is denied, reasons must be given for denying the fact; and if the respondent intends to prove a fact different from that stated in the statement of claim, the grounds of defence must state, with necessary particulars, the fact that the respondent intends to prove.*

*The grounds of defence must state specifically, with particulars, any fact or matter which makes the claim of the claimant not maintainable; or if not stated specifically, might take the claimant by surprise; or raises questions of fact not arising out of the statement of claim.*

*Example as follows—*

- 1. The respondent admits and does not require proof of the following allegations specified or matters pleaded in the claimant's statement of claim:.....*
- 2. The respondent denies the following allegations specified or matters pleaded in the claimant's statement of claim:.....*
- 3. The respondent denies the allegation [x] because ..... and instead pleads that .....*
- 4. The respondent alleges that the claimant's claim is not maintainable in law against the respondent because.....*
- 5 In the alternative, some or all of the loss suffered by the claimant was occasioned in whole or in part by the claimant's own action because..... ]*

**LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH  
THE RESPONDENT WILL RELY AT TRIAL**

	Document	Date	Description
<i>1</i>	<i>e.g. letter of offer</i>	<i>1 September 2013</i>	<i>Letter of offer from the claimant to the respondent</i>
<i>2</i>	<i>e.g. contract</i>	<i>10 September 2013</i>	<i>Contract signed by the claimant and the respondent</i>
<i>Etc</i>			

*[If a counterclaim is made, the statement of counterclaim (in Form 42.07) should be inserted here]*

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

Signed:.....

\*(Solicitor for) Respondent

To the \*(solicitor for the) claimant(s) at the address(es) given in the claim notice

\*Delete where inapplicable



42.02

Notice of appearance and intention to defend a claim notice or civil summons served outside Ireland which requires and appearance

Schedule C  
O.42, r. 1(4)

District Court Area of

District No.

Record number:

\*In the matter of .....

Between

..... \*Applicant/\*Claimant  
..... (in the above Court \*(area and) district) ..... Respondent

NOTICE OF APPEARANCE AND INTENTION TO DEFEND

To: \*(Solicitor for the \*applicant/\*claimant of.....

TAKE NOTICE that the respondent intends to defend this \*claim notice \*civil summons.

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

Signed:.....  
\*(Solicitor for the) respondent of.....

-----

District Court Area of

District No.

Record number:

\*In the matter of .....

Between

..... \*Applicant/\*Claimant  
..... (in the above Court \*(area and) district) ..... Respondent

NOTICE OF APPEARANCE AND INTENTION TO DEFEND

To: District Court Clerk at .....

TAKE NOTICE that the respondent intends to defend \*this claim notice \*this civil summons which is listed for the sitting of the District Court at ..... on the ..... day of ..... 20....

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

Signed:.....

\*(Solicitor for the) respondent of.....

\*Delete where inapplicable

**42.03**

Appearance and defence: debt claim

Schedule C  
O.42, r.3(1)

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

**APPEARANCE**

To: District Court Clerk:

The \*respondent intends \*respondents intend to defend this claim notice.

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
PPSN	
*Solicitor	*(if the respondent intends to defend in person, please state "in person")
Address for service of documents	

*[Repeat particulars for second and any subsequent respondent]*

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

Signed:.....  
\*(Solicitor for) Respondent

This appearance was filed at.....on the ..... day of .....  
20.... with ..... the District Court Clerk assigned to the above Court  
area and district

**Note: This page only to be completed and filed with the appropriate District Court Clerk; the remainder of the document to be completed and served on the claimant or claimant’s solicitor.**

\*Delete where inapplicable

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

## APPEARANCE AND DEFENCE

The debt claimed in the claim notice is:

\*disputed as to both liability and amount;

\*disputed only as to amount and the respondent admits that the amount of  
€..... is due to the claimant

\*admitted in full and the respondent requires time for payment.

**Particulars of first respondent:**

Name	
Address	*(in the above Court *(area) and district)
Occupation	
PPSN	
*Solicitor	*(if the respondent intends to defend in person, please state "in person")
Address for service of documents	

*[Repeat particulars for second and any subsequent respondent]*

## GROUNDS OF DEFENCE

*[Set out in numbered paragraphs a statement of the grounds of the respondent's defence, including all material facts on which the respondent relies, with necessary particulars of such fact.**Grounds of defence must state which of the facts stated in the claimant's statement of claim are admitted; denied or not admitted. Where a fact stated in a statement of claim is denied, reasons must be given for denying the fact; and if the respondent intends to prove a fact different from that stated in the statement of claim, the grounds of defence must state, with necessary particulars, the fact that the respondent intends to prove.*

*The grounds of defence must state specifically, with particulars, any fact or matter which makes the claim of the claimant not maintainable; or if not stated specifically, might take the claimant by surprise; or raises questions of fact not arising out of the statement of claim.*

*Example as follows—*

*1. The respondent admits and does not require proof of the following allegations specified or matters pleaded in the claimant’s statement of claim:.....*

*2. The respondent denies the following allegations specified or matters pleaded in the claimant’s statement of claim:.....*

*3. The respondent denies the allegation [x] because ..... and instead pleads that .....*

*4. The respondent alleges that the claimant’s claim is not maintainable in law against the respondent because.....*

*5 In the alternative, some or all of the loss suffered by the claimant was occasioned in whole or in part by the claimant’s own action because.....]*

**LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH THE RESPONDENT WILL RELY AT TRIAL**

	Document	Date	Description
1	<i>e.g. letter of offer</i>	<i>1 September 2013</i>	<i>Letter of offer from the claimant to the respondent</i>
2	<i>e.g. contract</i>	<i>10 September 2013</i>	<i>Contract signed by the claimant and the respondent</i>
Etc			

*[If a counterclaim is made, the statement of counterclaim (in Form 42.08) should be inserted here]*

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

Signed:.....

\*(Solicitor for) Respondent

To the \*(solicitor for the) claimant(s) at the address(es) given in the claim notice

\*Delete where inapplicable

42.04

Notice of change/appointment of solicitor

Schedule C  
O.42, r.6

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF \*APPOINTMENT \*CHANGE OF SOLICITOR

Take Notice that I have been appointed solicitor for the \*claimant \*respondent in the above civil proceedings.

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

Signed: .....  
Solicitor of.....

To:.....  
\*(Solicitor for the) \*claimant \*respondent  
of:.....

To District Court Clerk at:.....

\*And to:.....

Former solicitor for the \*claimant \*respondent  
of:.....

This notice was filed at..... on the ..... day of ..... 20.... with  
..... the District Court Clerk assigned to the above Court area and district

\*Delete where inapplicable

42.05

Notice of discharge of solicitor

Schedule C  
O.42, r.6

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF DISCHARGE OF SOLICITOR

Take Notice that I have discharged my solicitor respondent in the above civil proceedings and will now appear in person. All pleadings, notices and other documents in the civil proceedings may be served on me at.....

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

Signed: .....  
\*Claimant \*Respondent of.....

To:.....  
\*(Solicitor for the) \*respondent \*claimant  
of:.....

To District Court Clerk at:.....

\*And to:.....  
Former solicitor for the \*claimant \*respondent  
of:.....

This notice was filed at..... on the ..... day of .....  
20.... with ..... the District Court Clerk assigned to the above  
Court area and district

\*Delete where inapplicable

42.06

Notice requiring copy documents

Schedule C  
O.42, rr.8, 9

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE REQUIRING COPY DOCUMENTS

TAKE NOTICE that the \*respondent \*claimant requires copies of the following documents \*scheduled in \*referred to in the \*claim notice \*defence, namely

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

Signed: .....  
\*(Solicitor for the) \*respondent \*claimant  
of:.....

To:.....  
\*(Solicitor for the) \*claimant \*respondent  
of:.....

\*Delete where inapplicable



42.07

Notice requiring further particulars

Schedule C  
O.42, rr.8, 9

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE REQUIRING FURTHER PARTICULARS

Take notice that the \*respondent \*claimant requires further necessary particulars regarding the following matters referred to in the \*claim notice \*defence, namely

.....  
.....

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

Signed: .....  
\*(Solicitor for the) \*respondent \*claimant  
of:.....

To:.....  
\*(Solicitor for the) \*claimant \*respondent  
of:.....

\*Delete where inapplicable

**42.08**

## Statement of counterclaim

Schedule C

O.42, r.14

*[to be inserted where indicated in the appearance and defence in Form 42.01 or 42.03]*

## NOTICE OF COUNTERCLAIM

TAKE NOTICE that the respondent counterclaims against the claimant as follows:—

## STATEMENT OF COUNTERCLAIM

*[Set out in numbered paragraphs a statement of all material facts on which the respondent/counterclaimant relies, including necessary particulars of such fact, which must include the place where and the date when the counterclaim arose, but not the evidence by which those facts are to be proved. Specify in that statement the specific provisions of any enactment that is relied on and the amount or other relief or remedy sought. Examples are provided at the end of Form 40.01.]*

## LIST OF CORRESPONDENCE AND OTHER DOCUMENTS ON WHICH THE RESPONDENT WILL RELY AT TRIAL AS COUNTERCLAIMANT

	Document	Date	Description
1	<i>e.g. letter of offer</i>	<i>1 September 2013</i>	<i>Letter of offer from the claimant to the respondent</i>
2	<i>e.g. contract</i>	<i>10 September 2013</i>	<i>Contract signed by the claimant and the respondent</i>
Etc			

(A) IF YOU DISPUTE THE CLAIM and wish to defend the proceedings, then you must give, or send by post, to the respondent or respondent's solicitor at the address for service mentioned above an appearance and defence in Form 42.01, Schedule C of the District Court Rules, not later than 28 days after the service on you of this claim notice, and at the same time file a copy of your appearance to this counterclaim with the District Court Clerk at the address below.

(B) IF YOU PAY THE AMOUNT of €..... and costs of €..... to the respondent or respondent's solicitor within ten days and without serving an appearance and defence and filing an appearance you may avoid further costs.

IF YOU DO NOT ACT IN ACCORDANCE WITH (A) OR (B) ABOVE you will be held to have admitted the counterclaim and the respondent may apply to the District Court for judgment and proceed to execution.

*[Conclude as in Form 42.01]*

42A.01

Third party notice (indemnity or contribution)

Schedule C  
O.42A, r.1

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

..... Third Party

To: .....of.....\*(in the above Court \*(area and) district), third party

TAKE NOTICE that these proceedings have been brought by the claimant against the respondent. The claimant claims against the respondent †..... as appears on the \*(claim notice) \*(notice of application) a copy of which is delivered with this third party notice.

The respondent claims against you to be indemnified against the claimant's claim and the costs of these proceedings or contribution to the extent of the claimant's claim (or) the following relief or remedy, namely, .....

on the grounds that†† .....

(A) IF YOU DISPUTE THE CLAIM and wish to defend the proceedings, then you must give, or send by post, to the respondent or respondent's solicitor at the address for service mentioned above an appearance and defence in Form \*42.01 \*42.03, Schedule C of the District Court Rules, not later than 28 days after the service on you of this claim notice, and at the same time file a copy of your appearance with the District Court Clerk at the address below.

\*(B) IF YOU PAY THE AMOUNT of €.....and costs of €..... to the respondent or respondent's solicitor within ten days and without serving an appearance and defence and filing an appearance you may avoid further costs.

IF YOU DO NOT ACT IN ACCORDANCE WITH (A) OR (B) ABOVE you will be held to have admitted the claim and the respondent may apply to the District Court for judgment and proceed to execution.

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

Signed: .....

\*(Solicitor for the) respondent  
of:.....

To:.....  
\*(Solicitor for the) third party  
of:.....

†State briefly nature of claim  
††State briefly grounds of claim  
\*Delete where inapplicable

42A.02

Third party notice (issue)

Schedule C  
O.42A, r.1

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

..... Third Party

To: ..... of ..... \*(in the above Court \*(area and) district),  
third party

TAKE NOTICE that these proceedings have been brought by the claimant against the respondent. The claimant claims against the respondent †..... as appears on the \*(claim notice) \*(notice of application) a copy of which is delivered with this third party notice.

The respondent claims that the following question or issue †† ..... should be determined not only as between the claimant and the respondent but also as between the claimant and the respondent and you.

(A) IF YOU DISPUTE THE CLAIM and wish to defend the proceedings, then you must give, or send by post, to the respondent or respondent’s solicitor at the address for service mentioned above an appearance and defence in Form \*42.01 \*42.03, Schedule C of the District Court Rules, not later than 28 days after the service on you of this claim notice, and at the same time file a copy of your appearance with the District Court Clerk at the address below.

\*(B) IF YOU PAY THE AMOUNT of €..... and costs of €..... to the respondent or respondent’s solicitor within ten days and without filing and serving an appearance and defence you may avoid further costs.

\*(C) IF YOU ADMIT THE CLAIM and desire time for payment, you should call to the office of the respondent’s solicitor within 10 days after the service on you of this notice and sign a consent.

IF YOU DO NOT ACT IN ACCORDANCE WITH (A), (B) OR (C) ABOVE you will be held to have admitted the claim and the respondent may, without further notice to you, apply to the District Court for judgment and proceed to execution.

Dated ..... 20.....

Signed: .....

\*(Solicitor for the) respondent  
of:.....

To:.....

\*(Solicitor for the) third party  
of:.....

†State briefly nature of claim

††State briefly question or issue to be determined

\*Delete if inapplicable

42A.03

Notice of indemnity, contribution or issue against a party

Schedule C  
O.42A, r.11

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

..... \*Third party

To: ..... of ..... \*(in the above Court \*(area and) district), the \*(first-named respondent) \*(third party) \*(or as the case requires).

TAKE NOTICE that these proceedings have been brought by the claimant(s) against the respondent(s). The claimant claims against the respondent(s) .....as appears on the \*(claim notice) \*(notice of application).

The \*(second-named) respondent \*(while denying liability to the claimant) claims against you:

\*to be indemnified against the claimant’s claim and the costs of these proceedings or contribution to the extent of the claimant’s claim pursuant to the Civil Liability Act 1961, section 27

\*the following relief or remedy, namely,.....

\*that the following question or issue†..... should be determined not only as between the claimant and the respondent but also as between the claimant and the respondent and you

on the grounds that†.....[e.g. the loss and damage alleged to have been suffered by the claimant in these civil proceedings arose solely or alternatively were contributed to by reason of negligence and/or breach of duty (including statutory duty) on the part of the \*(first-named respondent) \*(third party) \*(or as the case requires)]

Dated ..... 20.....

Signed: .....

\*(Solicitor for the) \*(second-named respondent) \*(or as the case requires) of:.....



To:.....(Solicitor for the) \*(first-named respondent) \*(third party)  
\*(*or as the case requires*) of:.....

\*Delete where inapplicable

†State briefly grounds of claim

43.01

Authorisation by next friend or guardian *ad litem* of a minor

Schedule C  
O.43, r.8

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

WHEREAS the \*claimant \*respondent in the above civil proceedings before this Court is a child, having been born on the ..... day of .....19/20.....

\*(AND WHEREAS I,..... of.....am the (*state capacity, e.g. parent, legal guardian, etc of the child*)

AND I believe that I am a fit and proper person to act as

\*(next friend in the proceedings)

\*(guardian *ad litem* in the proceedings)

on behalf of the child and I have no interest in the matters in question in these proceedings adverse to that of the child

I hereby consent to act as \*next friend \*guardian *ad litem*, and authorise the use of my name in the above civil named proceedings as the \*next friend \*guardian *ad litem* of the child.

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

Signed:.....

To: District Court Clerk at.....

43.02

Notice of motion for direction under Civil Liability Act 1961, section 63(1)

Schedule C  
O.43, r. 11

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF MOTION

WHEREAS in the above civil proceedings for a wrong, now before the Court, the claimant is a minor, having been born on the .....day of ..... 19/20.....

AND WHEREAS the sum of €..... has been lodged in court by the respondent

TAKE NOTICE that an application will be made at the sitting of the District Court to be held at..... on the ..... day of ..... 20..., at .....a.m./p.m. for a direction under section 63(1) of the Civil Liability Act 1961 as to whether that sum of money should be accepted or the civil proceedings should go to trial.

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

Signed:.....  
\*Solicitor/\*Next friend for claimant

To.....  
of.....  
\*(Solicitor for the) respondent

And to District Court Clerk at .....

This notice of motion was filed at.....on the ..... day of ..... 20.... with .....the District Court Clerk assigned to the above Court area and district and issued returnable to the return date given above.

\*Delete where inapplicable

43.03

Notice of motion for an interim payment from money secured or invested for the benefit of a child

Schedule C

O.43, r. 13

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

.....of..... Applicant

applying on behalf of.....the claimant, a child, of.....

I, the applicant, am the \*next friend \*guardian *ad litem* of the above-named child who was born on the .....day of .....19/20....,

AND WHEREAS in proceedings before this Court an order was made on the ..... day of ..... 20.... directing that the sum of €....., to which the child was declared entitled in the proceedings, be \*secured/invested in .....for the benefit of the child

TAKE NOTICE that I will apply at the sitting of the District Court to be held at..... on the ..... day of ..... 20.... at .....a.m./p.m. for an interim payment out to me for the benefit of the said child of the sum of €..... from that sum. The payment sought is to meet the following requirement(s):—

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

Signed:.....

Applicant

To the District Court Clerk,  
District Court Office,

.....

-----

FOR OFFICE USE

Principal €.....  
Interest earned €.....  
Amount on deposit €.....

Payments out to date:

\*Delete where inapplicable

43.04

Notice of application for payment out of Court of money secured or invested for the benefit of a child

Schedule C

O.43, r. 15

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

I, the applicant, was the child \*claimant \*respondent in the above civil proceedings which were heard and decided by this Court on the ..... day of ..... 20..., and in which civil proceedings the Court ordered:

That the sum of €..... to which I was declared entitled, be invested for my benefit until I attained full age, and

\*That I may apply for payment out by request in writing to the Clerk and by producing to the Clerk my birth certificate and a form of identifying document including a photograph sufficient to identify me as the person entitled to payment, and filing with the Clerk a certified copy of my birth certificate.

I was born on the .....day of .....19/20.... and I attained full age on the ..... day of ..... 20....

A certified copy of my birth certificate is attached, and I have produced to you my birth certificate and a form of identifying document including a photograph of me.

AND I apply for an authorisation for the payment out of Court to me of the sum to which I was declared entitled (or the balance thereof) with any interest or investment gain which has accrued thereon.

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

Signed:.....

Applicant

To the District Court Clerk,  
District Court Office,

.....

\*Deleted where inapplicable

FOR OFFICE USE

Principal €.....  
Interest earned €.....  
Amount on deposit €.....

Payments out to date:

\*Authorised on ..... by ..... District Court Clerk assigned to  
the above Court area

\*Referred to the sitting of the District Court at..... on the ..... day of  
..... 20.... at .....a.m./p.m.

\*Delete where inapplicable

44.01

Notice of motion: general

Schedule C

O.44, r. 4

NOTICE OF MOTION

District Court Area of

District No.

Record number:

In the matter of section ..... of the .....[insert details of the relevant enactment relied on]

\*On the Application of

.....of..... Claimant

†Between

.....Claimant

..... Respondent

TAKE NOTICE that \*Claimant/\*Respondent in the above proceedings will apply to the District Court sitting at..... on the ..... day of ..... 20.... at .....a.m./p.m. (the “return date”) for the following \*order(s)/\*direction(s)/\*pre-trial relief:

A. [Insert details of orders, etc sought. See end of this form for examples]

B. The grounds for the application are as follows: .....

.....[set out in summary the grounds of the application].

C. Particular legal provisions relied on in the application .....

.....[identify any particular legal provisions relied on in the application].



LIST OF CORRESPONDENCE BETWEEN THE PARTIES RELEVANT TO THE SUBJECT MATTER OF THE MOTION, COPIES OF WHICH ARE ATTACHED

	Document	Date	Description
1	<i>e.g. letter</i>	<i>1 September 2013</i>	<i>Letter from the claimant to the respondent</i>
2	<i>e.g. letter</i>	<i>10 September 2013</i>	<i>Letter from the respondent to the claimant</i>
Etc			

\*This application will be supported by the affidavit of ..... sworn on the ..... day of ..... 20....

Signed:.....  
 \*(Solicitor for) moving party

To.....  
 of.....  
 \*(Solicitor for the) \*respondent \*claimant

And to District Court Clerk at .....

This notice of motion was filed at..... on the ..... day of ..... 20.... with ..... the District Court Clerk assigned to the above Court area and district and issued returnable to the return date given above.

\*Delete where inapplicable

**GUIDANCE NOTE: SAMPLE PARTICULARS OF ORDERS, ETC WHICH MAY BE INCLUDED IN A NOTICE OF MOTION (FORM 44.01)**

Note: The particulars given by the moving party (claimant or respondent) should be sufficient to allow any respondent and the Court to understand the nature and statutory basis of the application and should identify the grounds and the legal provisions on which the moving party will rely. The following are examples only.

**Order to set aside or vary a default judgment (decree) obtained by fraud, misrepresentation, surprise, mistake, etc**

An order under Order 47, rule 7 of the District Court Rules on behalf of the respondent to set aside/vary the judgment obtained herein, \*(and the respondent having lodged with the Clerk the sum of €....., this notice is to operate as a stay of proceedings pending the hearing of the said application).

**Order to make discovery**

An order under Order 45B, rule 3 of the District Court Rules directing the \*claimant/\*respondent to make discovery on oath of the following categories of documents which are or have been in his or her possession or power of procurement relating to matters in the above-entitled proceedings, as set out in the written request by the applicant dated the ..... day of ..... 20.... a copy of which is attached to this notice of motion, \*(the \*claimant/\*respondent having failed to respond to such request) \*(the \*claimant/\*respondent having refused such request by letter dated the ..... day of ..... 20...., a copy of which is also attached to this notice).

**Order to produce documents**

An order under Order 45B, rule 6 of the District Court Rules ordering the \*claimant/\*respondent to produce on oath to the \*respondent/\*claimant the following documents in the possession or power of procurement of said party (\*and a copy of the written request by the applicant for same dated the ..... day of ..... 20.... is attached to this notice \*(the \*claimant/\*respondent having failed to respond to such request) \*(the \*claimant/\*respondent having refused such request by letter dated the ..... day of ..... 20...., a copy of which is also attached to this notice)).

**Order on failure to make discovery**

An order under Order 45B, rule 7 of the District Court Rules

\*dismissing the claimant's action for want of prosecution for failing to make discovery in terms of the order made by the District Court sitting at .....on the ..... day of ..... 20....

\*striking out ordering the respondent's notice of intention to defend for failing to make discovery in terms of the order made by the District Court sitting at ..... on the ..... day of ..... 20....

\*for the attachment of the \*claimant/\*respondent for failing to make discovery in terms of the order made by the District Court sitting at .....on the ..... day of ..... 20....

**Order to send action forward to the Circuit Court or to the High Court**

An order to send these civil proceedings, currently pending before the Court forward to the \*Circuit Court \*High Court pursuant to section 22(8)(b) of the Courts (Supplemental Provisions) Act 1961 (inserted by section 21 of the Courts Act 1971).

**Order for permission to issue execution**

An order under Order 51, rule 4 of the District Court Rules for permission to issue execution on foot of a judgment (decree/dismiss) obtained by the above \*(claimant)\*(respondent) at the District Court held at..... on the

..... day of ..... 20... against the \*(respondent)\*(claimant) for the sum of €..... and also the sum of €..... for costs (and value-added tax), the sum of €..... being still due and owing to the \*(claimant)\*(respondent) on foot of the judgment (decree/dismiss).

44.02

Notice of motion to vary or discharge an order

Schedule C  
O.40C, r. 8, O.44, r. 10

District Court Area of

District No.

Record number:

In the matter of section .....of the ..... [*insert details of the relevant enactment relied on*]

\*On the Application of

.....of..... Claimant

†Between

.....Claimant

..... Respondent

NOTICE OF MOTION TO \*VARY \*DISCHARGE AN ORDER

WHEREAS on application made by the above-named applicant to the District Court sitting at.....on the ..... day of ..... 20...., the Court ordered (the “original order”):

[*set out particulars of the original order*]

TAKE NOTICE that the above-named \*applicant \*claimant \*respondent will apply to the District Court sitting at.....on the ..... day of ..... 20.... at .....a.m./p.m. (the “return date”) for:

A. Orders sought

\*an order varying the original order so that it instead provides that [*specify the variation sought*]

\*an order discharging the original order

B. The grounds for the application are as follows:.....

.....[*set out in summary the grounds of the application*].

C. Particular legal provisions relied on in the application .....

.....[*identify any particular legal provisions relied on in the application*].

LIST OF ANY DOCUMENTS ON WHICH THE MOVING PARTY WILL RELY AND COPIES OF WHICH ARE ATTACHED

	Document	Date	Description
1	<i>e.g. letter</i>	<i>15 September 2013</i>	<i>Letter from the claimant to the respondent</i>
2	<i>e.g. letter</i>	<i>21 September 2013</i>	<i>Letter from the respondent to the claimant</i>
Etc			

Signed.....

\*(Solicitor for the) \*claimant/\*respondent/\*moving party

To: District Court Clerk at .....

†And:..... \*(Solicitor for the) \*respondent/\*claimant

of.....

This notice of motion has been filed with the District Court Clerk at.....and issued on the ..... day of ..... 20....

\* Delete where inapplicable

45.01

Notice of lodgment

Schedule C  
O.45, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF LODGMENT

TAKE NOTICE that I..... the above respondent hereby lodge the sum of €..... \*(the additional sum of €..... in addition to the sum of €..... already lodged, making a total of €..... in all) which I consider is sufficient to satisfy the claimant's claim in the above-mentioned proceedings and liability is \*admitted \*denied.

A copy of this notice has been sent to the \*(solicitor for the) claimant.

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

Signed: .....  
\*(Solicitor for the) respondent  
of:.....

To: District Court Clerk at .....  
To be kept in a separate file

To:.....  
\*(Solicitor for the) claimant  
of:.....

\*Delete where inapplicable

45.02

Notice of acceptance of lodgment

Schedule C  
O.45, r.3

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF ACCEPTANCE OF LODGMENT

TAKE NOTICE that I..... the above claimant hereby accept the \*(total) sum of €..... lodged by you in satisfaction of the claim in respect of which it is lodged.

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

Signed: .....

\*(Solicitor for the) claimant

of:.....

To: District Court Clerk at .....

To:.....

\*(Solicitor for the) respondent

of:.....

\*Delete where inapplicable

45.03

Notice of tender offer

Schedule C  
O.45, r.9

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF TENDER OFFER

TAKE NOTICE that..... \*(on behalf of) the above respondent hereby makes the following offer of tender of payment of the sum of €..... \*(the additional sum of €..... in addition to the sum of €..... already offered, making a total of €..... in all) which I consider is sufficient to satisfy the claimant's claim in the above-mentioned proceedings and liability is \*admitted \*denied.

This tender is made on behalf of (*insert name of party or qualified party or name of the indemnifier of the respondent, as the case may be*).

A copy of this notice has been sent to the \*(solicitor for the) claimant.

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

Signed: .....  
\*(Solicitor for the) \*respondent \*qualified party  
of:.....

To: District Court Clerk at .....  
To be kept in a separate file

To:.....  
\*(Solicitor for the) claimant  
of:.....

\*Delete where inapplicable



45.04

Notice of acceptance of tender offer

Schedule C  
O.45, r.9

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF ACCEPTANCE OF TENDER OFFER

Take notice that I..... the above claimant hereby accept the \*(total) sum of €..... tendered by you in satisfaction of the claim in respect of which it is tendered.

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

Signed: .....

\*(Solicitor for the) claimant

of:.....

To: District Court Clerk at .....

To:.....

\*(Solicitor for the) respondent

of:.....

\*Delete where inapplicable

45B.01

Affidavit as to documents

Schedule C  
O.45B, r. 5

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

AFFIDAVIT AS TO DOCUMENTS

I, .....of ....., the (*claimant, respondent or state other capacity*) in the above-entitled civil proceedings, aged 18 years and upwards MAKE OATH and say as follows:

1. I have in my possession or power of procurement the documents relating to the matters in question in these civil proceedings and falling within the relevant categories of documents specified \*(in the letter requesting discovery dated..... 20..) \*(*\*in the order of the Court made on..... 20..*) set forth in the first and second parts of the first schedule hereto.

2. I object to produce the documents set forth in the second part of the said first schedule.

3. That [*here state upon what grounds the objection is made, e.g. privilege, and verify the facts relied on*].

4. I have had, but have not now, in my possession or power of procurement the documents relating to the matters in question in these civil proceedings set forth in the second schedule.

5. The last mentioned documents were last in my possession or power of procurement on [*state when*].

6. [*State what has become of the last-mentioned documents, and in whose possession they now are*].

7. According to the best of my knowledge, information, and belief, I have not now, and never had in my possession or power of procurement or in the possession, custody or power of my solicitor or agent, or in the possession, custody

or power of any other person on my behalf, any document of any kind, or any copy of or extract from any such document, relating to the matters in question in these civil proceedings, or any of them, or wherein any entry has been made relative to such matters, or any of them, and falling within the relevant categories of documents specified \*(in the letter requesting discovery dated..... 20..) \*(in the order of the Court made on..... 20....) other than and except the documents set forth in the first and second schedules.

8. I understand that the obligation on a party giving discovery is to discover all documents within his/her/its possession or power of procurement within the categories agreed or ordered to be delivered that contain information which may enable the party receiving the discovery to advance its own case or to damage the case of the party giving discovery or which may fairly lead to a train of inquiry which may have either of those consequences.

First Schedule

.....

Second Schedule

.....

[Note—

(i) Documents of the same or a similar nature, when numerous, must so far as possible, be grouped together and numbered or otherwise sufficiently marked so as to be identifiable.

(ii) Parties providing discovery must list documents, and must provide documents for inspection, in a manner corresponding with the categories in the agreement or order for discovery, or in a sequence corresponding with the manner in which the documents have been stored or kept in the usual course of business by the party making discovery.]

SWORN before me [name in capitals]  
at.....  
in the County on the ..... day of ..... 20....  
by the said .....

\*[who is personally known to me],  
\*[who is identified to me by ..... who is personally known to me]  
\*[whose identity has been established to me before the taking of this affidavit by the production to me of †passport no. .... issued on the ..... day of ..... by the authorities of ..... , which is an authority recognised by the Irish Government  
†national identity card no. .... issued on the ..... day of ..... by the authorities of

.....which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement

†Aliens Passport no. .... issued on the ..... day of ..... by the authorities of ..... which is an authority recognised by the Irish Government

†refugee travel document no. .... issued on the ..... day of ..... by the Minister for Justice and Equality

† travel document (other than refugee travel document) ..... issued on the ..... day of ..... by the Minister for Justice and Equality]

..... Deponent ..... \*Commissioner for Oaths/ \*Practising Solicitor

This affidavit is filed with the District Court Clerk at ..... on the ..... day of ..... 20... by .....on behalf of the..... in the above proceedings.

\*Delete where inapplicable  
†Where relevant, select appropriate option and delete others.

45D.01

Notice to admit documents

Schedule C  
O.45D, r.1

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE TO ADMIT DOCUMENTS

TAKE NOTICE that the \*(claimant) \*(respondent) in these civil proceedings proposes to adduce in evidence the documents specified below, and these documents may be inspected by the \*(respondent) \*(claimant) or \*his \*her solicitor or agent at ..... on the ..... day of ....., 20..., between the hours required,

And take notice that the \*(claimant) \*(respondent) requires the \*(respondent) \*(claimant) to admit, for the purposes of these civil proceedings only, within four days after the date mentioned above that such of the documents as are specified to be originals were respectively written, signed, or executed as they purport respectively to have been, that such as are specified as copies are true copies; and such documents as are stated to have been served, sent or delivered, were so served, sent, or delivered respectively, saving all just exceptions to the admissibility of such documents as evidence in these civil proceedings.

Documents—

.....

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

Signed: .....

\*(Solicitor for the) \*claimant \*respondent

of: .....

To: .....

\*(Solicitor for the) \*respondent \*claimant

of: .....

\*Delete where inapplicable

45D.02

Notice of admission of documents

Schedule C  
O.45D, r.1

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF ADMISSION OF DOCUMENTS

Take notice that the \*(respondent) \*(claimant), hereby admits, for the purposes of these civil proceedings only, the documents specified below, subject to the qualifications or limitations, if any, specified, saving all just exceptions to the admissibility of such documents as evidence in these civil proceedings.

This admission is made for the purpose of these civil proceedings only and is not an admission to be used against the \*(respondent) \*(claimant) on any other occasion, or by anyone other than the \*(claimant) \*(respondent) \*(party requiring the admission).

Documents—

.....

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

Signed: .....

\*(Solicitor for the) \*respondent \*claimant

of: .....

To: .....

\*(Solicitor for the) \*claimant \*respondent

of: .....

\*Delete where inapplicable

45D.03

Notice to admit facts

Schedule C  
O.45D, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE TO ADMIT FACTS

Take notice that the \*(claimant) \*(respondent) in these civil proceedings requires the \*(respondent) \*(claimant) to admit, for the purposes of these civil proceedings only, the facts specified below; and the \*(respondent) \*(claimant) is hereby required, within seven days from the service of this notice to admit the said facts saving all just exceptions to the admissibility of such facts as evidence in these civil proceedings.

Facts—

.....

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

Signed: .....

\*(Solicitor for the) \*claimant \*respondent

of: .....

To: .....

\*(Solicitor for the) \*respondent \*claimant

of: .....

\*Delete where inapplicable

45D.04

Notice of admission of facts

Schedule C  
O.45D, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

NOTICE OF ADMISSION OF FACTS

Take notice that the \*(respondent) \*(claimant), hereby admits, for the purposes of these civil proceedings only, the facts specified below, subject to the qualifications or limitations, if any, specified, saving all just exceptions to the admissibility of such facts as evidence in these civil proceedings.

This admission is made for the purpose of these civil proceedings only and is not an admission to be used against the \*(respondent) \*(claimant) on any other occasion, or by any one other than the \*(claimant) \*(respondent) \*(party requiring the admission).

Facts—

.....

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

Signed: .....

\*(Solicitor for the) \*respondent \*claimant

of: .....

To: .....

\*(Solicitor for the) \*claimant \*respondent

of: .....

\*Delete where inapplicable



46.01

Witness summons

Schedule C  
O.46, r.1

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

WITNESS SUMMONS

YOU ARE HEREBY REQUIRED to attend and give evidence in these proceedings at the sitting of the District Court for the hearing of civil proceedings to be held at..... on the ..... day of ..... 20... at ..... a.m./p.m. and so from day to day until these proceedings are disposed of,

†and there to produce (*specify the documents to be produced, if any*)

on behalf of the .....

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

Signed: .....

\*Judge of the District Court

\*District Court Clerk

To ..... of .....

†include only if witness summons requiring a witness to attend and produce any books, papers or documents to the Court (witness summons *duces tecum*) required.

47.01

Certificate of no appearance/defence

Schedule C  
O.47, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

CERTIFICATE

It is hereby certified as follows:—

That \*no sum whatever \*the sum of €..... only/has been paid on foot of the claim herein since the service of the claim notice herein and that the sum of €..... is now actually due by the respondent to the claimant.

That no appearance and defence to this claim notice or notice requiring particulars of the claim notice has been received by the claimant or solicitor for the claimant.

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

Signed: .....  
\*(Solicitor for the) claimant

This certificate is filed with the District Court Clerk at ..... on the ..... day of ..... 20.. by .....on behalf of the claimant who requests judgment for the sum of €..... and costs of €..... \*(and claims the recovery of value-added tax payable by the claimant on the said costs).

\*Delete where inapplicable.

47.02

Affidavit of debt (except in proceedings to which the Consumer Credit Act 1995 or the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281 of 2010) apply)

Schedule C  
O.47, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

AFFIDAVIT OF DEBT

I, ..... of ..... in the County of ..... aged 18 years and upwards MAKE OATH and say as follows:—

1. I am the claimant (*or state capacity in which deponent makes the affidavit and I am duly authorised to make this affidavit on behalf of the claimant*) in these civil proceedings. The facts herein stated are within my own knowledge save where otherwise appears and where so otherwise appears I believe the same to be true.

2. The claim notice herein claiming the sum of €..... was served on the respondent on the ..... day of ..... 20...

3. No appearance and defence to the claim notice has been received by the claimant or the solicitor for the claimant.

4. \*No sum whatever \*The sum of €..... only/has been paid on foot of the claim herein since the service of the claim notice and the sum of €..... is now actually due and owing by the respondent to the claimant over and above all just credits, claims and allowances and no part thereof has been in any manner paid, satisfied or discharged.

5. Value-added tax \*is/\*is not/payable by the claimant on the costs of these civil proceedings (and any such value-added tax \*is/\*is not recoverable by the claimant from the Revenue Commissioners).

SWORN before me [name in capitals] at  
.....  
in the County on the ..... day of ..... 20...,  
by the said .....

\*[who is personally known to me],

\*[who is identified to me by .....  
who is personally known to me]

\*[whose identity has been established to me before  
the taking of this affidavit by the production to me of  
†passport no. .... issued on the ..... day  
of ..... by the authorities of

....., which is an authority recognised  
by the Irish Government

†national identity card no. .... issued  
on the ..... day of ..... by the authorities of

..... which is an EU Member State,  
the Swiss Confederation or a Contracting Party to the  
EEA Agreement

†Aliens Passport no. .... issued on the  
..... day of ..... by the authorities of

..... which is an authority recognised  
by the Irish Government

†refugee travel document no. .... issued  
on the ..... day of ..... by the Minister for  
Justice and Equality

† travel document (other than refugee travel  
document) ..... issued on the  
..... day of ..... by the Minister for Justice and  
Equality]

.....  
Deponent

.....  
\*Commissioner for Oaths/ \*Practising Solicitor

CERTIFICATE

It is hereby certified as follows:—

That \*no sum whatever \*the sum of €..... only/has been paid on foot of the  
claim herein since the service of the claim notice herein and that the sum of  
€..... is now actually due by the respondent to the claimant.

That no appearance and defence to this claim notice or notice requiring part-  
iculars of the claim notice has been received by the claimant or solicitor for  
the claimant.

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

Signed: .....

\*(Solicitor for the) claimant

This affidavit is filed with the District Court Clerk at  
..... on the ..... day of ..... 20... by  
..... on behalf of the claimant who requests judgment for the  
sum of €..... and costs of €..... \*(and claims the recovery of value-added tax  
payable by the claimant on the said costs).

\*Delete where inapplicable.

†Where relevant, select appropriate option and delete others.

47.03

Affidavit of debt (in proceedings to which the Consumer Credit Act 1995 or the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281 of 2010) apply)

Schedule C  
O.47, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

I,..... of..... aged 18 years and upwards MAKE OATH and say as follows:—

1. I am the claimant (or the —state capacity in which deponent makes the affidavit- of the claimant and I am duly authorised to make this affidavit on behalf of the claimant) in these civil proceedings. The facts herein stated are within my own knowledge save where otherwise appears and where so otherwise appears I believe the same to be true.

2. The claim notice herein claiming the sum of €..... was served on the \*(first named) respondent on the ..... day of .....20.....\*(and on the second named respondent on the ..... day of ..... 20.....).

3. No appearance and defence to the claim notice has been received by the claimant or the solicitor for the claimant.

4. \*No sum whatever \*The sum of €..... only/has been paid on foot of the claim herein since the service of the claim notice and the sum of €..... is now actually due and owing by the respondent to the claimant over and above all just credits, claims and allowances and no part thereof has been in any manner paid, satisfied or discharged.

5. The provisions of sections 57 and 58 of the Consumer Credit Act 1995 and of Parts 2 to 7 (so far as applicable) of the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281 of 2010) were complied with in respect of the transaction(s) to which these civil proceedings relate.

6. Value-added tax \*is/\*is not/payable by the claimant on the costs of the within proceedings (and any such value-added tax \*is/\*is not/recoverable by the claimant from the Revenue Commissioners).

[insert additional averments as appropriate to the case]

SWORN before me [name in capitals] at

.....  
in the County on the ..... day of ..... 20...,  
by the said .....

\*[who is personally known to me]

\*[who is identified to me by .....  
who is personally known to me]

\*[whose identity has been established to me before  
the taking of this affidavit by the production to me of  
†passport no. .... issued on the ..... day  
of ..... by the authorities of  
....., which is an authority recognised  
by the Irish Government

†national identity card no. .... issued  
on the ..... day of ..... by the authorities of  
..... which is an EU Member State,  
the Swiss Confederation or a Contracting Party to the  
EEA Agreement

†Aliens Passport no. .... issued on the  
..... day of ..... by the authorities of  
..... which is an authority recognised  
by the Irish Government

†refugee travel document no. .... issued  
on the ..... day of ..... by the Minister for  
Justice and Equality

† travel document (other than refugee travel  
document) ..... issued on the  
..... day of ..... by the Minister for Justice and  
Equality]

.....  
Deponent

.....  
\*Commissioner for Oaths/ \*Practising Solicitor

CERTIFICATE

It is hereby certified as follows:—

That \*no sum whatever \*the sum of €..... only/has been paid on foot of the claim herein since the service of the claim notice herein and that the sum of €..... is now actually due by the respondent to the claimant.

That no appearance and defence to this claim notice or notice requiring particulars of the claim notice has been received by the claimant or solicitor for the claimant.

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

Signed: .....

\*(Solicitor for the) claimant

This affidavit is filed with the District Court Clerk at ..... on the ..... day of ..... 20... by ..... on behalf of the claimant who requests judgment for the sum of €..... and costs of €..... \*(and claims the recovery of value-added tax payable by the claimant on the said costs).

\*Delete where inapplicable.

†Where relevant, select appropriate option and delete others.

47.04

Judgment (decree) by default (in debt claims except in proceedings to which the Consumer Credit Act 1995 or the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281 of 2010) apply)

Schedule C  
O.47, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant  
..... Respondent

IT APPEARING

1. that a claim notice for a debt or liquidated money demand was duly served on the respondent ..... of ..... claiming €..... for .....

2. that the respondent failed to serve and file an appearance and defence to the claim notice

3. AND IT FURTHER APPEARING by the affidavit of ..... \*(on behalf of) the claimant, verifying the claim, sworn the ..... day of ..... 20... and the claimant’s request for judgment that the respondent(s) is/are justly indebted to the claimant in the sum of €.....

IT IS THEREFORE ORDERED AND DECREED that the claimant recover from the respondent the sum of €..... for debt, the sum of €..... for costs \*(and value-added tax)

AND all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the respondent to satisfy the said debt, costs \*(and value-added tax), and interest from the date hereof on the †debt (exclusive of the costs and tax) — at the rate per annum for the time being standing specified in section 26 of the Debtors (Ireland) Act 1840.

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

Signed: .....  
Judge of the District Court

Signed: .....  
\*(Solicitor for the) Claimant.

County of .....



I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of ..... in the said County

\*Delete where inapplicable  
† If the debt exceeds €190.46

47.05

Judgment (decree) by default (in debt claims in proceedings to which the Consumer Credit Act 1995 or the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. 281 of 2010) apply)

Schedule C  
O.47, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

IT APPEARING

- 1. that a claim notice for a debt or liquidated money demand was duly served on the respondent ..... of..... claiming €.....
- 2. [*insert appropriate recital as set out below*]
- 3. that the respondent failed to serve and file an appearance and defence to the claim notice
- 4. that the provisions of the District Court Rules applicable to proceedings on the claim notice have been complied with,

AND IT FURTHER APPEARING by the affidavit of ..... \*(on behalf of) the claimant verifying the claim, sworn on the ..... day of ..... 20..., and the claimant’s request for judgment that the respondent is justly indebted to the claimant in the sum of €.....

IT IS THEREFORE ORDERED AND DECREED that the claimant recover from the respondent the sum of €..... for debt, the sum of €..... for costs \*(and value-added tax)

AND all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the respondent(s) to satisfy the said debt, costs \*(and value-added tax), and interest from the date hereof on the †debt (exclusive of the costs and tax) at the rate per annum for the time being standing specified in section 26 of the Debtors (Ireland) Act 1840.

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

Signed: .....  
 Judge of the District Court  
 Signed: .....  
 \*(Solicitor for the) Claimant

County of .....

I authorise and empower ..... of .....  
and..... of.....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of ..... in said County

\*Delete where inapplicable

† If the debt exceeds €190.46

**Examples of statement to be included at paragraph 2 above**

**Hire-Purchase Agreement**

2. that the said claim is due by the \*(first named) respondent on foot of an  
(a)..... agreement in writing dated the ..... day of  
..... 20... and made between the claimant of the one part and the \*(first  
named) respondent of the other part \*(and due by the second named respondent  
on foot of a contract of guarantee and/or indemnity in writing dated the ..... day  
of ..... 20... and made between the claimant of the one part and the  
second named respondent of the other part)

**Hire-Purchase Agreement which has been assigned to the claimant**

2. (1) that the said claim is due by the \*(first named) respondent on foot of a  
hire-purchase agreement in writing dated the ..... day of ..... 20... and  
made between [*Insert name and address of the original owner*] of the one part  
and the \*(first named) respondent of the other part \*(and due by the second  
named respondent on foot of a contract of guarantee and/or indemnity in writing  
dated the ..... day of ..... 20... and made between  
(a)..... of the one part and the second named respondent of  
the other part);

2(2) that by assignment dated the ..... day of ..... 20... the said  
(a)..... assigned his/her/their interest in the said hire-pur-  
chase agreement \*(and guarantee and/or indemnity) to the claimant; by notice  
dated the ..... day of ..... 20... the said respondent(s) was/were notified  
of the said assignment

**Credit-Sale Agreement**

2. that the said claim is due by the \*(first named) respondent on foot of a  
credit-sale agreement in writing dated the ..... day of ..... 20... and made  
between the claimant of the one part and the \*(first named) respondent of the  
other part \*(and due by the second named respondent on foot of a contract of  
guarantee and/or indemnity in writing dated the ..... day of ..... 20... and  
made between the claimant of the one part and the second named respondent  
of the other part)

**Credit Agreement**

2. that the said claim is due by the respondent on foot of a memorandum of contract in writing dated ..... day of ..... 20... and made between the claimant of the one part and the respondent of the other part

**Consumer-Hire Agreement**

2. that the said claim is due by the respondent on foot of a memorandum of contract in writing dated the ..... day of ..... 20..., and made between the claimant of the one part and the respondent of the other part

47.06

Affidavit exhibiting consent

Schedule C  
O.47, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

I, ..... of ..... aged 18 years and upwards MAKE OATH and say as follows:—

AFFIDAVIT EXHIBITING \*A CONSENT TO PAYMENT BY INSTALMENTS \*A CONSENT TO JUDGMENT

I,..... of ..... aged 18 years and upwards MAKE OATH and say as follows:—

- 1. I was present and I saw the above-named respondent execute the consent set out below.
- 2. Value-added tax \*is/\*is not payable by the claimant on the costs of these civil proceedings (and any such value-added tax \*is/\*is not recoverable by the claimant from the Revenue Commissioners).

SWORN before me [name in capitals] at  
 .....  
 in the County on the ..... day of ..... 20...,  
 by the said .....

\*[who is personally known to me]  
 \*[who is identified to me by .....  
 who is personally known to me]  
 \*[whose identity has been established to me before  
 the taking of this affidavit by the production to me of  
 †passport no. .... issued on the ..... day  
 of ..... by the authorities of  
 ....., which is an authority recognised  
 by the Irish Government,  
 †national identity card no. .... issued  
 on the ..... day of ..... by the authorities of  
 ..... which is an EU Member State,  
 the Swiss Confederation or a Contracting Party to the  
 EEA Agreement

†Aliens Passport no. .... issued on the  
 ..... day of ..... by the authorities of  
 ..... which is an authority recognised  
 by the Irish Government  
 †refugee travel document no. .... issued  
 on the ..... day of ..... by the Minister for  
 Justice and Equality  
 † travel document (other than refugee travel  
 document) ..... issued on the  
 ..... day of ..... by the Minister for Justice and  
 Equality]

.....  
 Deponent \*Commissioner for Oaths/ \*Practising Solicitor

†Where relevant, select appropriate option and delete others.

†CONSENT TO PAYMENT BY INSTALMENTS

The respondent hereby admits that \*he/\*she is liable to the claimant in the sum of €..... *\*being portion of the claim* \*as claimed in the claim notice served on him/her on the ..... day of ..... 20... and consents to pay the sum of €..... together with the sum of €..... for costs \*(and value-added tax) by instalments of €..... each, the first of such instalments to be paid on the ..... day of ..... 20... and thereafter on the ..... in each succeeding \*(week/month/quarter, etc).

The respondent further consents that on default being made by him/her in payment of any one or more of such instalments that the whole balance of the said debt and costs \*(and value-added tax) then remaining unpaid shall immediately become due and payable by him/her.

‡CONSENT TO JUDGMENT

The respondent hereby admits that \*he/\*she is liable to the claimant in the sum of €..... *\*being portion of the claim* \*as claimed in the claim notice served on him/her on the ..... day of ..... 20... and consents to pay the entry of judgment against him/her accordingly with the appropriate costs \*(and value-added tax).

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

Signed: .....  
 Respondent

Witness

This affidavit is filed with the District Court Clerk at ..... on the ..... day of ..... 20... by ..... on behalf of the claimant who requests †judgment as in the consent ‡judgment for the

sum of €..... and costs \*(and claims the recovery of value-added tax payable by the claimant on the said costs).

\*delete where inapplicable

†for consent to payment by instalments

‡for consent to judgment

47.07

Instalment judgment (decree) by consent

Schedule C  
O.47, r.2

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

IT APPEARING

1. that a claim notice for a debt or liquidated money demand was duly served on the respondent ..... of ..... claiming €..... for .....
2. that the respondent failed to serve and file an appearance and defence to the claim notice

AND IT FURTHER APPEARING that the respondent(s) signed a consent dated the ..... day of ..... 20.. and from the Affidavit of ..... \*(on behalf of) the claimant, verifying the consent, sworn the ..... day of ..... 20.. that the respondent is justly indebted to the claimant in the sum of €..... and that the claimant has agreed to accept payment thereof together with the sum of €..... for costs by instalments of €..... each, the first of such instalments to be paid on the ..... day of ..... 20.. and thereafter on the ..... in each succeeding ..... as in the said consent appearing

IT IS THEREFORE ORDERED AND DECREED that the claimant recover from the respondent(s) the sum of €..... for debt together with the sum of €..... for costs \*(and value-added tax) by instalments of €..... each, the first of such instalments to be paid on the ..... day of ..... 20.., and thereafter on the ..... in each succeeding ....., but on default being made by the respondent in payment of any one or more of such instalments IT IS ORDERED AND DECREED that the respondent do forthwith pay to the claimant the whole balance of the said sum and costs then remaining unpaid and all Sheriffs and County Registrars are hereby commanded on such default as aforesaid to take in execution the goods of the respondent to satisfy the said debt and costs \*(and value-added tax).

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

Signed: .....  
Judge of the District Court



Signed: .....

\*(Solicitor for the) Claimant.

County of .....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of ..... in said County

\*Delete where inapplicable

47B.01

Notice of discontinuance

Schedule C  
O.47B, r.1

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

TAKE NOTICE that the claimant hereby wholly discontinues these civil proceedings [or withdraws so much of his/her claim in these civil proceedings as relates to: .....] [*If only against some respondents*, add as against the first-named respondent, .....*only, or as the case requires*].

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

Signed: .....

\*(Solicitor for the) claimant

of: .....

To: .....

\*(Solicitor for the) \*..... respondent

of: .....

To: District Court Clerk at .....

49.01

Notice of trial

Schedule C  
O.49, r.4

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

TAKE NOTICE of trial of these civil proceedings \*(the issues in these civil proceedings ordered to be tried) at the place and at the time on the date, \*\* (not being less than ten days from the date of service of this notice), as is fixed by the Clerk.

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

Signed: .....

\*(Solicitor for the) claimant of: .....

To: .....

\*(Solicitor for the) respondent of: .....

This notice has been filed with the District Court Clerk at ..... on the ..... day of ..... 20...

\* Delete where inapplicable

\*\*delete where short notice of trial has been given by consent of all parties.

TAKE NOTICE that the trial of these civil proceedings \*(the issues in these civil proceedings ordered to be tried) has been fixed for the sitting of the District Court scheduled at ..... on the ..... day of ..... 20... at..... a.m./p.m.. \*(and is listed to commence at ..... a.m./p.m.).

The claimant or other moving party must file with the Clerk \*(at ..... ) with this notice copy papers in the case for use by the Judge in accordance with Order 49, rule 7 of the District Court Rules.

Dated ..... 20...

Signed: .....

District Court Clerk

To: .....

\*(Solicitor for the) claimant of: .....

To: .....

\*(Solicitor for the) respondent of: .....

\*Delete where inapplicable

49.02

Case management questionnaire

Schedule C  
O.49, r. 8

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

CASE MANAGEMENT QUESTIONNAIRE

Section A: Pre-Trial Procedures

1. Pleadings

(a) Are all Pleadings exchanged? ..... yes/no

If not, what pleading was last exchanged?

2. Have all pre-trial procedures been fully complied with including responses to:-

*(Delete where not applicable)*

(a) Particulars?..... yes/no

(b) Discovery?..... yes/no

(c) Admissions; notices to admit facts?..... yes/no

(d) Any other directions previously given by a Judge?..... yes/no

3. If any matters referred to at paragraphs 1-2 above remain outstanding, please set out reasons for same.

4. Are there any further directions required to prepare the case for trial?..... yes/no

If yes, please explain the directions required and give reasons.

Section B: Trial

1. Set out your estimate of the likely duration of the trial.
2. Please provide a brief statement of the issues to be determined at trial.

Section C: Expert and other Witnesses

1. List the witnesses you intend to call, indicating which of these are expert witnesses.

2. Have the parties endeavoured to exchange expert- witnesses' reports with the other side?..... yes/no

If not, why not?

3. Are special facilities required in the courtroom for any witness or to facilitate the giving of any expert evidence?..... yes / no

If so, give details.

4. Does any witness require an interpreter?..... yes/no

If so, give details.

5. Are any special information and communications technology facilities (e.g. video-conferencing) required in the courtroom to facilitate the trial of the case?..... yes/no

If so, give details.

49.03

Judgment (decree) following trial: damages

Schedule C  
O.49, r.12

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

JUDGMENT (DECREE): DAMAGES

IT APPEARING TO THE COURT that a claim notice was issued by the claimant against the respondent on .....20.... and duly served on the respondent(s) claiming damages not exceeding €15,000 for .....

AND the claim notice coming on for hearing at the sitting of the Court for the hearing of civil proceedings held at..... on the ..... day of ..... 20... \*in the presence of the claimant \*and the respondent

AND having read the pleadings \*and affidavits filed

\*AND having heard the \*evidence and submissions of the claimant \*and the respondent

IT IS ORDERED AND DECREED that the claimant recover from the respondent(s) the sum of €..... for damages, the sum of €..... for costs \*(and value-added tax)

AND all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the respondent(s) to satisfy the said damages, costs \*(and value-added tax), and interest from the date hereof on the †damages (exclusive of the costs and tax) at the rate per annum for the time being standing specified in section 26 of the Debtors (Ireland) Act 1840.

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

Signed: .....

Judge of the District Court

Signed: .....

\*(Solicitor for the) Claimant

County of .....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of.....in said County

\*Delete where inapplicable

† If the damages exceed €190.46



49.04

Judgment (decree) following trial (debt claim)

Schedule C  
O.49, r.12

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

JUDGMENT (DECREE): DEBT

IT APPEARING TO THE COURT that a claim notice was issued by the claimant against the respondent on .....20... and duly served on the respondent ..... of ..... claiming for debt of €..... and costs

AND the claim notice coming on for hearing at the sitting of the Court for the hearing of civil proceedings held at..... on the ..... day of ..... 20... \*in the presence of the claimant \*and the respondent

AND having read the pleadings \*and affidavits filed

\*AND having heard the \*evidence and submissions of the claimant \*and the respondent

IT IS ORDERED AND DECREED that the claimant recover from the respondent(s) the sum of €..... for debt, the sum of €..... for costs \*(and value-added tax)

AND all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the respondent(s) to satisfy the said debt, costs \*(and value-added tax), and interest from the date hereof on the †debt (exclusive of the costs and tax) — at the rate per annum for the time being standing specified in section 26 of the Debtors (Ireland) Act 1840.

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

Signed: .....  
Judge of the District Court

Signed: .....  
\*(Solicitor for the) Claimant.

County of .....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of.....in the said County

\*Delete where inapplicable  
† If the debt exceeds €190.46

49.05

Instalment judgment (decree) following trial

Schedule C  
O.49, r. 12

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

INSTALMENT JUDGMENT (DECREE)

IT APPEARING TO THE COURT that a claim notice was issued by the claimant against the respondent on .....20.... and duly served on the respondent ..... of ..... claiming for \*(debt of €.....) \*(.....) and costs

AND the claim notice coming on for hearing at the sitting of the Court for the hearing of civil proceedings held at..... on the ..... day of ..... 20... \*in the presence of the claimant \*and the respondent

AND having read the pleadings \*and affidavits filed

\*AND having heard the \*evidence and submissions of the claimant \*and the respondent

IT IS ORDERED AND DECREED that the claimant recover from the respondent the sum of €..... for \*debt/\*damages together with the sum of €..... for costs \*(and value-added tax) and the sum of €..... for witnesses' expenses and that execution on foot of said judgment (decree) be stayed provided that the respondent pays the full sum of €..... by instalments of €..... each, the first of such instalments to be paid on the ..... day of ..... 20... and thereafter on the ..... in each succeeding ..... but on default being made by the respondent in payment of any one or more of such instalments IT IS FURTHER ORDERED AND DECREED that the said stay shall cease and that the respondent forthwith pay to the claimant the whole balance of the said sum, costs and witnesses' expenses then remaining unpaid and all Sheriffs and County Registrars are hereby commanded on such default to take in execution the goods of the respondent to satisfy the said \*debt/\*damages, costs \*(and value-added tax) and witnesses' expenses.

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

Signed: .....  
Judge of the District Court

Signed: .....  
\*(Solicitor for the) Claimant.

County of.....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of.....in the said County

\*Delete where inapplicable

† If the debt exceeds €190.46

49.06

Judgment (decree) following trial where costs by way of recoupment are ordered to be paid

Schedule C

O.49, r. 12

District Court Area of

District No.

Record number:

Between

.....Claimant

.....Respondents

JUDGMENT (DECREE)

IT APPEARING TO THE COURT that a claim notice was issued by the claimant against the first-named respondent ..... of ..... and the second-named respondent ..... of ..... on .....20.... and duly served on the respondents claiming for \*(debt of €.....)\*(.....) and costs

AND the claim notice coming on for hearing at the sitting of the Court for the hearing of civil proceedings held at..... on the ..... day of ..... 20... \*in the presence of the claimant \*and the respondents

AND having read the pleadings \*and affidavits filed

\*AND having heard the \*evidence and submissions of the claimant \*and the respondent

AND IT APPEARING TO THE COURT that \*(the first-named respondent is justly indebted to the claimant in the sum of €..... for .....) \*(the claimant is entitled to recover the sum of €..... for damages against the first-named respondent) and that the claimant has failed to prove \*his/\*her claim against the second-named respondent.

IT IS THEREFORE ORDERED AND DECREED that the claimant recover from the first-named respondent the sum of €..... for \*debt/\*damages debt and the sum of €..... for costs \*(and value-added tax) and €..... for witnesses' expenses

AND WHEREAS the claim notice against the second-named respondent was dismissed \*(on the merits) \*(without prejudice) and it was ordered that the second-named respondent recover against the claimant the sum of €..... for costs \*(and value-added tax) and witnesses' expenses of the dismiss

AND WHEREAS the claimant has paid the said sum of €..... to the second-named respondent on foot of the dismiss

NOW IT IS FURTHER ORDERED that the first-named respondent against whom the claimant has succeeded pay to the claimant by way of recoupment the sum of €..... for costs \*(and value-added tax) and witnesses' expenses which the claimant was ordered to pay and has paid to the second-named respondent against whom the claimant has failed, making the sum to be paid to the claimant by the first named respondent the total sum of €.....

AND all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the first-named respondent to satisfy the \*debt/\* damages, costs \*(and value-added tax), and interest from the date hereof on the †\*debt/\*damages (exclusive of the costs and tax) — at the rate per annum for the time being standing specified in section 26 of the Debtors (Ireland) Act 1840.

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

Signed: .....  
Judge of the District Court

Signed: .....  
\*(Solicitor for the) Claimant.

County of.....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of.....in the said County

\*Delete where inapplicable  
† If the debt exceeds €190.46

49.07

Judgment (decree) following trial for recovery of goods (with or without damages)

Schedule C  
O.49, r. 12

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

JUDGMENT (DECREE)

IT APPEARING TO THE COURT that a claim notice was issued by the claimant against the respondent on the ..... day of ..... 20... and duly served on the respondent ..... of ..... claiming for the recovery of certain goods namely:— ..... \*and for the sum of €..... \*(debt of €.....)\*(.....) and costs

AND the claim notice coming on for hearing at the sitting of the Court for the hearing of civil proceedings held at..... on the ..... day of ..... 20... \*in the presence of the claimant \*and the respondent

AND having read the pleadings \*and affidavits filed

\*AND having heard the \*evidence and submissions of the claimant \*and the respondent

AND IT APPEARING TO THE COURT that the claimant is entitled to recovery of the said goods as claimed and to the said sum of €..... as also claimed

IT IS ORDERED AND DECREED BY THE COURT that the claimant recover from the respondent the said goods and \*(recover from the respondent the sum of €..... for debt) the sum of €..... for costs \*(and value-added tax) and the sum of €..... for witnesses' expenses,

AND all Sheriffs and County Registrars are hereby commanded to take the said goods, namely, .....

from the respondent and to deliver the said goods to the claimant, and are further commanded to take in execution the goods of the respondent to satisfy the \*(debt), costs \*(and value-added tax), expenses, \*(and interest from the date hereof on the †debt (exclusive of the costs, tax and expenses) — at the rate per annum for the time being standing specified in section 26 of the Debtors (Ireland) Act 1840).

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

Signed: .....  
Judge of the District Court

Signed: .....  
\*(Solicitor for the) Claimant.

County of .....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff) of.....in the said County

\*Delete where inapplicable

† If the debt exceeds €190.46



49.08

Judgment (decree) following trial for recovery of possession of premises (ejectment)

Schedule C  
O.49, r. 12

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

JUDGMENT (DECREE): EJECTMENT

IT APPEARING TO THE COURT that a claim notice was issued by the claimant against the respondent on the ..... day of ..... 20... and duly served on the respondent ..... of ..... requiring the respondent \*(and all persons claiming any interest in the premises) to answer the claimant’s claim for recovery of possession of premises at ..... in the above Court \*(area and) district

[Insert appropriate particulars, examples of which are given below]

AND the claim notice coming on for hearing at the sitting of the Court for the hearing of civil proceedings held at..... on the ..... day of ..... 20... \*in the presence of the claimant \*and the respondent

AND having read the pleadings \*and affidavits filed

\*AND having heard the \*evidence and submissions of the claimant \*and the respondent

IT IS ORDERED AND DECREED that the claimant be put into possession of the said premises, and the Sheriff or County Registrar of the County in which the premises are situate is hereby commanded to put the claimant into possession of the said premises.

IT IS FURTHER ORDERED AND DECREED that the claimant recover from the respondent the sum of €..... for costs (and value-added tax) and witnesses’ expenses, and all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the respondent to satisfy the said costs (and value-added tax) and witnesses’ expenses.

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

Signed: .....  
Judge of the District Court

Signed: .....  
\*(Solicitor for the) Claimant.

of

County of.....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (decree).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff)  
of.....in the said County

\*Delete where inapplicable

**Sample particulars**

**Overholding**

And the claim notice requesting that the claimant be put into possession of (*describe premises and where situated*)(the “premises”) in the possession of the respondent, which claim notice was brought on the ground that the respondent overheld the premises

AND IT APPEARING that premises were held by the respondent from the claimant at the..... rent of €..... and that respondent's interest therein determined on the ..... day of ..... 20.. by (*set out mode of determination*)

**Recovery of possession from a permissive occupant**

And the claim notice requesting that the claimant be put into possession of (*describe premises and where situated*) (the “premises”) which were in the occupation (or possession) of the respondent by permission of the claimant as caretaker (or servant, or permissive occupant, or as the case may be) and which the respondent refused to deliver up on a demand for possession being made,

AND IT FURTHER APPEARING TO THE COURT that the respondent was in occupation (or possession) of the said premises as caretaker (or servant, or permissive occupant, or tenant strictly at will, or by sufferance, or was in occupation of the said premises through or under such caretaker (or as before) and that he/she was duly required by demand made by the claimant on the ..... day of ..... 20..., to deliver up possession of the premises to the claimant but that he/she has refused (or omitted) to do so, and continues to withhold possession of the said premises from the claimant,

**Recovery of possession for Non-Payment of Rent**

And the claim notice requesting that the claimant be put into possession of (*describe the premises and where situated*) (the “premises”) held by the respondent as tenant of the premises to the claimant at the yearly rent of €..... under (*describe contract of tenancy*) which claim notice was brought on the ground that one year's rent and upwards of the premises was in arrear and unpaid,

AND IT APPEARING TO THE COURT that the premises were held by the respondent as tenant of the premises to the claimant at the ..... rent of €..... and that the sum of €..... being the amount of one year's rent and arrears of rent up to the ..... day of ..... 20..., was due and owing to the claimant by the respondent, in respect of the said tenancy, at the time of service of the claim notice after all just and fair allowances.

AND IT FURTHER APPEARING that the sum of €..... in all is due and owing by the respondent to the claimant for rent due up to the ..... day of ..... 20...

49.09

Judgment in favour of respondent (dismiss) following trial

Schedule C  
O.49, r.6

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

JUDGMENT (DISMISS)

IT APPEARING TO THE COURT that a claim notice was issued by the claimant against the respondent on .....20..... and duly served on the respondent ..... of ..... claiming for \*(debt of €.....)\*(.....)\*(the recovery of possession of (*state premises and where situated*) and costs

AND the claim notice coming on for hearing at the sitting of the Court for the hearing of civil proceedings held at..... on the ..... day of ..... 20... \*in the presence of the claimant \*and the respondent

AND having read the pleadings \*and affidavits filed

\*AND having heard the \*evidence and submissions of the claimant \*and the respondent

AND IT APPEARING TO THE COURT that the claimant failed to prove the claim.

IT IS THEREFORE ORDERED AND DECREED that the claimant's claim notice be and the same is hereby DISMISSED (*state whether "on the merits" or "without prejudice"*) that the respondent recover against the claimant the sum of €..... for costs \*(and value-added tax) and witnesses' expenses of the DISMISS and all Sheriffs and County Registrars are hereby commanded to take in execution the goods of the claimant to satisfy the said costs \*(and value-added tax) and witnesses' expenses.

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

Signed: .....  
Judge of the District Court

Signed: .....  
\*(Solicitor for the) Respondent.

County of.....

I authorise and empower ..... of .....  
and ..... of .....  
or either of them and their assistants to execute the above judgment (dismiss).

The sum to be levied hereunder is €.....

Given under my hand this ..... day of ..... 20...

County Registrar (Under-Sheriff)  
of.....in the said County

\*Delete where inapplicable

50.01

Affidavit: general

Schedule C  
O.50, r. 2

District Court Area of

District No.

Record number:

In the matter of section ..... of the ..... [*insert details of the relevant enactment relied on*]

\*On the Application of

.....of ..... Claimant

†Between

.....Claimant

..... Respondent

AFFIDAVIT

I, ..... of ....., the (*claimant or state other capacity*) in the above-entitled proceedings, aged 18 years and upwards MAKE OATH and say as follows:

1. (*State deponent's authority*). I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears, I believe the same to be true.

[*Insert remaining averments as appropriate*]

SWORN before me [name in capitals] at  
.....  
in the County on the ..... day of ..... 20...,  
by the said .....

\*[who is personally known to me]

\*[who is identified to me by .....  
who is personally known to me]

\*[whose identity has been established to me before  
the taking of this affidavit by the production to me of  
†passport no. .... issued on the ..... day  
of ..... by the authorities of

....., which is an authority recognised  
by the Irish Government

†national identity card no. .... issued  
on the ..... day of ..... by the authorities of

..... which is an EU Member State,  
the Swiss Confederation or a Contracting Party to the  
EEA Agreement

†Aliens Passport no. .... issued on the  
..... day of ..... by the authorities of

..... which is an authority recognised  
by the Irish Government

†refugee travel document no. .... issued  
on the ..... day of ..... by the Minister for  
Justice and Equality

† travel document (other than refugee travel  
document) ..... issued on the  
..... day of ..... by the Minister for Justice and  
Equality]

.....  
Deponent

.....  
\*Commissioner for Oaths/ \*Practising Solicitor

This affidavit is filed with the District Court Clerk at .....on the .....  
day of ..... 20... by ..... on behalf of the claimant.

\*Delete where inapplicable.

†Where relevant, select appropriate option and delete others.

51A.01

Summons for attendance of debtor under Enforcement of Court Orders Act 1926, section 15(1)

Schedule C  
O.51A, r.3 (1)

District Court Area of

District No.

Record number:

To: ..... of ..... in the above Court area ..... Debtor

Application by ..... of ..... Creditor

**Enforcement of Court Orders Act 1926, section 15(1)**

**SUMMONS FOR ATTENDANCE OF DEBTOR**

**If you fail to attend in the District Court at the place and on the date given below at the time stated, an instalment order may be made in your absence. If you fail to deliver your completed Statement of Means as required below, an instalment order may be made. Failure to make a payment due under an instalment order may result in a further summons being issued against you, which may lead to your being arrested and imprisoned for a period of up to three months.**

**YOU ARE REQUIRED BY THIS SUMMONS to attend at the District Court at..... on the ..... day of ..... 20... at ..... a.m./p.m. to be examined as to your means.**

**YOU ARE ALSO REQUIRED BY THIS SUMMONS at least one week before that date to complete the Statement of Means attached to this summons, detach it and lodge the completed Statement of Means, by delivering or sending it to the Clerk of the District Court at the address shown on the Statement of Means.**

The creditor claims that by an Order of the..... Court dated the ..... day of ..... 20..., it was ordered that the creditor recover against you, the debtor, the total sum of €....., (debt) and the sum of €..... for costs and expenses, together with interest at the rate of .....% per annum on the \*(debt) \*(debt and costs and expenses) until satisfied.

The creditor also claims that the Order has not been complied with and that there is now due and owing by you the debtor to the creditor on foot of that Order the total sum of €.....

Signed:.....  
District Court Clerk

..... detach here .....

*(Statement of Means in Form No. 51A.02 to be added)*

\*Delete where inapplicable



51A.02

Statement of means under Enforcement of Court Orders Act 1926, section 15(1)

Schedule C  
O.51A, r.4

Record number:

District Court Area of

District No.

.....Debtor

.....Creditor

Enforcement of Court Orders Act 1926, section 15(1)

STATEMENT OF MEANS

**Please note:**

- 1. Please complete this Statement of Means carefully and accurately. If you need assistance in completing this Statement of Means, you may wish to contact your solicitor (if you have one), the Money Advice and Budgeting Service or a Citizen's Advice Centre.**
- 2. If you deliver a statement of means which is false to your knowledge in a material particular, you may be arrested and imprisoned for a period not exceeding three months.**
- 3. If you are in receipt of any social welfare payments it is most important in your own interests that you bring with you your social services card and produce it to the Court.**
- 4. If any of your details do not fit in the space provided, please attach a separate sheet giving those details.**
- 5. You are advised to keep a copy of this Statement of Means and bring it with you to Court.**

To the District Court Clerk  
at.....

As required by the summons served on me in the above-named proceedings, I now lodge the following statement of my means.

	€ per week (gross)	€ per week (net)
<b>1. Income:</b>  Please set out in this section each means by which your income is earned (e.g. employment) or the source of your income (e.g. social welfare benefits) and the amount per week you receive from each means or source.		
a.		€
b.		€
c.		€
<b>2. Outgoings:</b>  Please set out below in this section details of your outgoings (e.g. rent, household expenses, gas/electricity, loan repayments) and the amount per week you pay for each.		
a.		€
b.		€
c.		€
<b>3. Other court orders:</b>  Please set out in this section if you are at present making payments on foot of any other court orders (e.g. other instalment orders, maintenance etc). If you are, please give details of the amounts and the reference numbers and bring with you to court copies of any relevant documents. If you are not, strike through this section.		
a.	Reference no.:	€
b.	Reference no.:	€
c.	Reference no.:	€
<b>4. Assets:</b>  Please give in this section a description of any assets which you own (e.g. money in bank, car etc) and the approximate value of each. If you have no relevant assets, strike through this section.		
a.		€
b.		€
c.		€
<b>5. Other liabilities:</b>  Please give in this section a description of any other liabilities you have which you are not currently repaying and the approximate value of each. If you have no relevant liabilities, strike through this section.		
a.		€
b.		€

c.		€
<b>6. Persons for whose support I am legally or morally liable:</b>  Please give details in this section of other people who you are legally or morally liable to support, for example your children or any relative who relies on you. If there is no relevant person, strike through this section.		
Name:	Address:	Age:
Name:	Address:	Age:
Name:	Address:	Age:

I say that, to the best of my knowledge and belief, the particulars given above and on any attached sheet are accurate and true. I understand that if I deliver a statement of means which is false to my knowledge in a material particular, I may be arrested and imprisoned for a period not exceeding three months.

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

Signed: .....  
 Debtor  
 of .....

This statement of means is filed with the District Court Clerk at .....on the ..... day of ..... 20... by .....  
 on behalf of the debtor

51A.03

Statutory declaration to accompany application for summons under Enforcement of Court Orders Act 1926, section 15(1)

Schedule C  
O.51A, r. 3

District Court Area of

District No.

Record number:

To: ..... Debtor

of .....

Application by ..... Creditor

of .....

STATUTORY DECLARATION TO ACCOMPANY APPLICATION FOR SUMMONS

Enforcement of Court Orders Act 1926, section 15(1)

I, ..... of ..... aged sixteen years and upwards, do solemnly and sincerely declare that:

1. \*(I am the creditor in the above civil proceedings); \*(I have been authorised by the creditor in the above civil proceedings to make this statutory declaration on his/her behalf).

2. The judgment debt sought to be enforced in the accompanying application is a debt due under a judgment, order or decree of a court of competent jurisdiction, namely, a judgment/order/decree of the ..... Court dated the ..... day of ..... 20...

3. The debtor in these proceedings is ordinarily resident at ..... in the above Court district.

I make this declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed: .....

Declared before me ..... [name in capitals]  
a \*(Judge of the District Court) \*(commissioner for oaths/practising solicitor) \*(peace commissioner) \*(notary public) by the said .....

\*[who is personally known to me]

\*[who is identified to me by ..... who is personally known to me]

\*[whose identity has been established to me before the taking of this Declaration by the production to me of †passport no. .... issued on the ..... day of ..... by the authorities of ....., which is an authority recognised by the Irish Government †national identity card no. .... issued on the ..... day of ..... by the authorities of ..... which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement, †Aliens Passport no..... issued on the ..... day of ..... by the authorities of ..... which is an authority recognised by the Irish Government, †refugee travel document no..... issued on the ..... day of ..... by the Minister for Justice and Equality, †travel document (other than refugee travel document) ..... issued on the ..... day of ..... by the Minister for Justice and Equality,]

at .....this ..... day of .....20.....

Signed: .....

\*Judge of the District Court \*Commissioner for Oaths / \*Practising Solicitor / \*Peace Commissioner /\*Notary Public.

This statutory declaration has been filed with the District Court Clerk at ..... on the ..... day of .....20.....

\* Delete words or clauses which are not applicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

**51A.04**Certificate of amount due under Enforcement of Court Orders Act 1926,  
section 15(6)Schedule C  
O.51A, r. 5

District Court Area of

District No.

Record number:

.....Debtor

.....Creditor

## CERTIFICATE OF AMOUNT DUE

Enforcement of Court Orders Act 1926, section 15(6)

To the District Court

I certify that, as set out below, \*no sum whatever/\*the total sum of €..... has been paid on foot of the claim herein since the service of the summons herein, and that the sum of €..... is now due by the debtor to the creditor.

Amount due (for debt, costs, expenses, interest if any) at the date of the service of the summons		€
Payments made since the date of the service of the summons:—		
Date	Amount	
	€	
	€	
	€	
	€	
<u>Deduct</u> total payments		€
		€
Add accrued interest (if any) from date of service of summons to date of this certificate		€
Amount now due		€

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

Signed: .....

\*(Solicitor for the) creditor

\*Delete where inapplicable

51A.05

Summons to vary an instalment order

Schedule C  
O.51A, r. 7

District Court Area of

District No.

Record number:

.....Debtor

.....Creditor

SUMMONS TO VARY AN INSTALMENT ORDER

Enforcement of Court Orders Acts 1926 to 2009

You are hereby required to attend at the sitting of the District Court to be held at..... on the..... day of .....20....., at ..... a.m./p.m. on the hearing of an application on behalf of the\*creeitor/\*debtor:

1. To have the instalment order dated the ..... day of .....20....., made in this matter by the District Court sitting in the said Court area, varied as provided by section 5 of the Enforcement of Court Orders Act 1940, or
2. For such other relief as the Court considers just in the circumstances, and
3. For the costs of this application.

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

Signed: .....  
District Court Clerk

To the above \*creeitor/\*debtor of .....

\*Delete where inapplicable

51A.06

Summons on failure to comply with an instalment order

Schedule C  
O.51A, r. 8

District Court Area of

District No.

Record number:

.....Debtor

.....Creditor

**SUMMONS ON FAILURE TO COMPLY WITH AN INSTALMENT ORDER**

Enforcement of Court Orders Act 1940, section 6  
(as amended by Enforcement of Court Orders (Amendment) Act 2009,  
section 2)

**If you fail, without reasonable excuse, to attend in the District Court at the place and on the date given below at the time stated, a warrant may be issued, without further warning, for you to be arrested and brought before the District Court.**

**Failure to make a payment due under an instalment order may result in your being arrested and imprisoned for a period of up to three months.**

WHEREAS:

1. An instalment order was made on the ..... day of ..... 20..... by the District Court sitting at..... for the District Court Area of..... District No....., under which you, the above debtor were ordered to pay the sum of €..... and the sum €..... for costs,

\*(by..... instalments of €..... each, the first such instalment to be paid before or on the ..... day of .....20..... and each subsequent instalment to be paid .....thereafter)

\*(in one payment to be paid before or on the ..... day of .....20.....)

2. Proof has been given that the instalment order was duly served on you the debtor of..... and that the instalment order is still in force

3. The creditor claims that you the debtor have not complied with the instalment order and that there is now due and owing by you the debtor to the creditor on foot of the instalment order the total sum of €.....

**YOU ARE REQUIRED to attend at the sitting of the District Court to be held at..... on the ..... day of .....20..... at.....a.m./p.m. on the hearing of this summons.**



At that hearing, having listened to the creditor and to you, the Court may:

treat the case as one asking the Court to vary the instalment order and if it does, it may change the number of the instalments, or the amount of each instalment, or the times at which instalments are to be paid or change a single payment to payment by such instalments at such times as the Judge thinks is reasonable in all the circumstances;

request that the creditor and you seek to resolve the dispute by mediation, which is a process which involves a neutral party attempting to help the creditor and you to reach a settlement or compromise;

make an order for your imprisonment for a period not exceeding three months, but with the imprisonment postponed provided you comply with conditions set out by the Court, or

make an order for your imprisonment for a period not exceeding 3 months, to take effect immediately.

Signed: .....  
District Court Clerk

To .....  
of .....  
the above-named Debtor.

\*Delete where inapplicable

51A.07

Order for arrest and imprisonment — postponed conditionally

Schedule C  
O.51A, r. 8(16)

District Court Area of

District No.

Record number:

.....Debtor

.....Creditor

**ORDER FOR ARREST AND IMPRISONMENT — POSTPONED  
CONDITIONALLY**

Enforcement of Court Orders Act 1940, section 6(7)(c)  
(as amended by Enforcement of Court Orders (Amendment) Act 2009,  
section 2)

The District Court has made an order for your imprisonment for your failure to comply with an instalment order referred to below as the “original order”. The order for imprisonment is postponed provided that you comply with the conditions of this order.

If you fail to comply with this order, you may be arrested and imprisoned for the period specified in this order.

If your ability to comply with the terms of this order changes, you should immediately contact the District Court Clerk at..... and (if the original order was made by this Court) ask to have the matter re-entered to apply to the Judge to vary the original order.

WHEREAS:

1. By an instalment order (the “original order”) dated the ..... day of ..... 20.... made by the District Court sitting at..... for the District Court Area of....., District No....., the above-named Debtor was ordered to pay the sum of €..... and the sum €..... for costs,

\*(by..... instalments of €..... each, the first such instalment to be paid before or on the ..... day of .....20.... and each subsequent instalment to be paid..... thereafter)

\*(in one payment to be paid before or on the ..... day of .....20....);

2. Application was made for the issue of a summons under section 6(1) of the Enforcement of Court Orders Act 1940 and such summons was issued and \*came on \*was re-listed for hearing today when both the Creditor and Debtor were present in court,

3. Both the Creditor and the Debtor being present in Court, before hearing their evidence, the Judge explained to the Debtor

(a) that the Debtor is entitled to apply to the Court for a certificate of legal aid under section 6A of the said Act of 1940, and

(b) the consequences, under section 6 of the said Act of 1940, which may follow a failure to comply with an instalment order, and in particular the possibility of imprisonment,

4. The Court was satisfied that the original order was duly served upon the Debtor on the ..... day of ..... 20.... and that the \*summons \*(notice of re-listing) was duly served upon the Debtor on the ..... day of ..... 20.....,

5. The Court was satisfied that the Debtor has failed to comply with said original order,

6. The Court was satisfied that there is now due and owing on foot of the original order the sum of €... being the amount of..... instalments which have accrued due and are unpaid at the date of this order, together with the further sum of €..., being the costs of the application under section 6 of the Enforcement of Court Orders Act 1940, making in all the sum of €....,

7. The Judge was satisfied, beyond reasonable doubt, on the evidence presented, that it had been established on behalf of the Creditor that—

(a) the failure to pay the sum in respect of which the Debtor has made default is not due to the Debtor's mere inability to pay but is due to his or her wilful refusal or culpable neglect, and

(b) the Debtor has no goods which could be taken in execution under any process of the Court by which the original order was given,

NOW IT IS HEREBY ORDERED under section 6(7)(c) of the said Act of 1940:

(A) that the said Debtor for his/her said default and failure to pay the said instalments be arrested and committed to prison at..... to be imprisoned for the period of..... the date of his/her arrest unless he/she, or someone on his/her behalf, shall sooner pay to the District Court Clerk at....., or to the Governor of the said prison for the said Clerk, or to the under-mentioned Superintendent of the Garda Síochána for said Clerk, the above-mentioned sum of €....., being the total amount of all instalments of the said debt and costs which have accrued before, and are unpaid at, the date of this order, and the costs of this application, but

(B) that execution of this order of imprisonment be postponed until the ..... day of ..... 20....

\*(on condition that

\*the said Debtor makes payments of €..... each to the said Creditor, the first such payment to be made before or on the ..... day of .....20..... and each subsequent payment to be made ..... thereafter)

\*(insert any further conditions);

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

Signed .....  
Judge of the District Court

Warrant in Form 51A.09 to be added where debtor fails to comply with conditions

\*Delete where inapplicable

51A.08

Order for arrest and imprisonment — postponed conditionally

Schedule C  
O.51A, r. 8(16)

District Court Area of

District No.

Record number:

.....Debtor

.....Creditor

**ORDER FOR ARREST AND IMPRISONMENT**

Enforcement of Court Orders Act 1940, section 6(7)(d)  
(as amended by Enforcement of Court Orders (Amendment) Act 2009,  
section 2)

WHEREAS:

1. By an order for payment (the “instalment order”) dated the ..... day of .....20..... made by the District Court sitting at..... for the District Court Area of....., District No....., the above-named Debtor was ordered to pay the sum of €..... and the sum €..... for costs,

\*(by..... instalments of €..... each, the first such instalment to be paid before or on the ..... day of .....20..... and each subsequent instalment to be paid..... thereafter)

\*(in one payment to be paid before or on the ..... day of .....20.....);

2. Application was made by or on behalf of the Creditor for the issue of a summons under section 6(1) of the Enforcement of Court Orders Act 1940 and such summons was issued and \*came on \*was re-listed for hearing today when both the Creditor and Debtor were present in court,

3. Both the Creditor and the Debtor being present in Court, before hearing their evidence, the Judge explained to the Debtor

(a) that the Debtor is entitled to apply to the Court for a certificate of legal aid under section 6A of the said Act of 1940, and

(b) the consequences, under section 6 of the said Act of 1940, which may follow a failure to comply with an instalment order or other order to which that section applies, and in particular the possibility of imprisonment,

4. The Court was satisfied that the instalment order was duly served upon the Debtor on the ..... day of .....20..... and that the \*summons \*(notice of re-listing) was duly served upon the Debtor on the ..... day of .....20.....,

5. The Court was satisfied that the Debtor has failed to comply with said instalment order,

6. The Court was satisfied that there is now due and owing on foot of the instalment order the sum of €..... being the amount of..... instalments which have accrued due and are unpaid at the date of this order, together with the further sum of €....., being the costs of the application under section 6 of the Enforcement of Court Orders Act 1940, making in all the sum of €.....,

7. The Judge was satisfied, beyond reasonable doubt, on the evidence presented, that it had been established on behalf of the Creditor that—

(a) the failure to pay the sum in respect of which the Debtor has made default is not due to the Debtor's mere inability to pay but is due to his or her wilful refusal or culpable neglect, and

(b) the Debtor has no goods which could be taken in execution under any process of the court by which the instalment order was made,

NOW IT IS HEREBY ORDERED under section 6(7)(d) of the said Act of 1940 that the said Debtor for his/her said default and failure to pay the said instalments be arrested and committed to prison at..... to be imprisoned for the period of..... the date of his/her arrest unless he/she, or someone on his/her behalf, shall sooner pay to the District Court Clerk at..... to the Governor of the said prison for the said Clerk, or to the under-mentioned Superintendent of the Garda Síochána for said Clerk the above-mentioned sum of €....., being the total amount of all instalments of the said debt and costs which have accrued before, and are unpaid at, the date of this Order, and the costs of this application.

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

Signed .....  
Judge of the District Court

Warrant in Form 51A.09 to be added

\*Delete where inapplicable

51A.09

Warrant for arrest of debtor

Schedule C  
O.51A, r. 8(18)

District Court Area of

District No.

Record number:

.....Debtor

.....Creditor

**WARRANT FOR ARREST OF DEBTOR**

(non-appearance on summons)

Enforcement of Court Orders Act 1940, section 6(3)(a)

(as amended by Enforcement of Court Orders (Amendment) Act 2009,  
section 2)

WHEREAS:

1. By an instalment order (the “original order”) dated the ..... day of .....20.... made by the Court sitting at..... for the District Court Area of..... District No...., the above named Debtor (the “Debtor”) was ordered to pay the sum of €.... and the sum €.... for costs,

\*(by..... instalments of €.... each, the first such instalment to be paid before or on the ..... day of .....20.... and each subsequent instalment to be paid..... thereafter)

\*(in one payment to be paid before or on the ..... day of .....20....);

2. Proof has been given of the due service upon the Debtor of the said original order and the said original order is still in force,

3. The Creditor claims that the said original order has not been complied with and that there is now due and owing by the Debtor to the Creditor on foot of the said original order the total sum of €....,

4. On the ..... day of .....20...., a summons was issued pursuant to section 6(2) of the Act of 1940 directing the Debtor of..... to appear at a sitting of the District Court to be held at..... \*(today), \*(on the ..... day of .....20....) at ..... a.m./p.m.,

5. The Debtor has failed without reasonable excuse to appear at:

\* (the said time and place)

\* (the hearing of the said summons fixed for the sitting of the District Court held at..... on the ..... day of .....20.... at..... a.m./p.m);

6. The Court is satisfied that the summons was duly served upon the Debtor \*(and the Court is satisfied that the Debtor was duly notified of the new date fixed for the said hearing in accordance with the Court's direction);

THIS IS TO COMMAND YOU to whom this warrant is addressed to arrest the Debtor..... of..... and to bring him/her before the District Court as soon as practicable.

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

Signed .....  
Judge of the District Court

To the Superintendent of the Garda Síochána  
at.....

\*Delete where inapplicable



**51B.01**

Notice of claim to goods taken in execution

Schedule C  
O.51B, r.1

CLAIM TO GOODS TAKEN IN EXECUTION

TAKE NOTICE that on the ..... day of .....20..... my goods and chattels,  
that is to say.....

were wrongfully seized by you in execution at..... in the County  
of..... and that you are hereby required to return same to me forthwith.

My address for service of documents is as stated hereunder.

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

Signed: .....  
Claimant  
of (*address for service*)  
in the County of .....

To  
\*Sheriff/\*County Registrar of the County of.....  
at.....

**51B.02**

Notice of admission of title of claimant, or request to County Registrar to withdraw

Schedule C  
O.51B, r.3

NOTICE OF ADMISSION OF TITLE OF CLAIMANT, OR REQUEST TO THE COUNTY REGISTRAR TO WITHDRAW

TAKE NOTICE (that I admit the title of..... to the goods seized by you)

(that I request you to withdraw from possession) under the execution issued in the proceedings in which I was \*claimant/\*respondent and..... was \*respondent/\*claimant

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

Signed: .....  
Execution Creditor  
Of .....

To  
\*Sheriff/\*County Registrar of the County of.....  
at.....

51B.03

Notice of motion on application to the Court for sale of chattels

Schedule C  
O.51B, r. 6

District Court Area of

District No.

Record number:

..... of ..... \*County Registrar/\*Sheriff  
..... of ..... Claimant  
..... of ..... Execution creditor

NOTICE OF MOTION FOR SALE OF CHATTELS

TAKE NOTICE that on the ..... day of ..... 20.... at ..... a.m./p.m,  
application will be made at the sitting of the District Court to be held  
at..... for:

1. An order for the sale by the \*County Registrar/\*Sheriff of .....  
being \*(part of) the goods and chattels mentioned in the interpleader summons  
herein, subject to such conditions as the Court may think proper, and
2. That the costs of and incidental to this application be provided for by the  
Court on the hearing of the interpleader summons.

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

Signed: .....

\*(Solicitor for) Execution Creditor.  
of (*address for service*)

*or, as the case may be,* \*(Solicitor for)  
\*County Registrar/\*Sheriff

To: \*County Registrar/\*Sheriff for the county of .....  
at ..... *or, as the case may be,*  
To: ..... Execution Creditor of .....

And to ..... claimant of .....

And to: District Court Clerk at .....

This notice of motion was filed at ..... on the ..... day of  
..... 20.... with ..... the District Court Clerk assigned to  
the above Court area and district and issued returnable to the return date  
given above.

\*Delete where inapplicable

51B.04

Interpleader summons

Schedule C  
O.51B, r. 9

District Court Area of

District No.

Record number:

..... of ..... \*County Registrar/\*Sheriff (Applicant)  
..... of ..... Claimant (First respondent)  
..... of ..... Execution creditor (Second respondent)

INTERPLEADER SUMMONS

The above claimant and above execution creditor as respondents are hereby required personally to appear at the sitting of the District Court for the hearing of civil proceedings to be held at..... in the above Court area and district on the ..... day of ..... 20.... at ..... a.m./p.m. and to maintain or relinquish their respective claims to the goods and chattels, that is to say, .....

taken in execution in the said Court district, under the Execution Order in the proceedings under record number..... entitled between

.....Claimant  
..... Respondent

in regard to which execution a claim has been made by the first respondent

And the applicant will seek an order that the \*County Registrar's/\*Sheriff's fees and expenses be provided for.

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

Signed: .....  
\*(Solicitor for) applicant

To: ..... first respondent of.....

To: ..... second respondent of.....

To: District Court Clerk at .....

This interpleader summons is issued returnable to the place, date and time shown above on the ..... day of ..... 20.... at.....by ..... the District Court Clerk assigned to the above Court area and district on the application of the above applicant

\*Delete where inapplicable

51C.01

Affidavit to certify a European Enforcement Order

Schedule C  
O. 51C, r. 5

District Court Area of

District No.

Record number:

Between

.....Claimant

..... Respondent

AFFIDAVIT

I, ..... of ..... in the County of ..... aged 18 years and upwards MAKE OATH and say as follows:—

1. (*State deponent’s authority*). I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears, I believe the same to be true.

2. I beg to refer to the proceedings had herein and to the [judgment/order] of the Court made on the ..... day of ..... 20..... where [judgment was given for the claimant / the respondent was ordered to pay the claimant] the sum of €..... I say that the said [judgment/decree/dismiss/order] amounts to a judgment on an uncontested claim, within the meaning of Regulation (EC) No 805/2004.

3. The claim herein was for payment of a specific sum of money which had fallen due and that the claim was uncontested within the meaning of Article 3 of Regulation (EC) No 805/2004 because:

[state which of the circumstances set out in Article 3 applies]

4. The [judgment / order] may be certified as a European Enforcement Order under Article 6 of Regulation (EC) No 805/2004 because:

\*each of the conditions set out in paragraphs (a), (b), (c) and (where appropriate) (d) of paragraph 1 of Article 6 of the said Regulation is met in respect of the [judgment / order] or

\*(where any of the procedural requirements set out in any one or more of Articles 13 to 17 inclusive of Regulation (EC) No 805/2004 is not met) each of the conditions set out in paragraphs (a), (b) and (where appropriate) (d) of paragraph 1 of Article 6 of the said Regulation is met in respect of the [judgment / order]

and, [state the basis upon which under Article 18(1) or Article 18(2) of the Regulation any non-compliance was cured]

5. I beg to refer to a completed draft European Enforcement Order certificate in the form in Annex I to Regulation No. 1869/2005 upon which marked "A" I have signed my name prior to the swearing hereof and I say that the contents of the said draft certificate as completed are true. I accordingly pray that the [judgment / order] be certified as a European Enforcement Order in accordance with Article 6 of the said Regulation No. 805/2004 in the form of the draft exhibited hereto.

SWORN before me [name in capitals] at

.....  
in the County on the ..... day of ..... 20....,  
by the said .....

\*[who is personally known to me]

\*[who is identified to me by .....  
who is personally known to me]

\*[whose identity has been established to me before  
the taking of this affidavit by the production to me of  
†passport no. .... issued on the ..... day  
of ..... by the authorities of  
....., which is an authority recognised  
by the Irish Government

†national identity card no. .... issued  
on the ..... day of ..... by the authorities of  
..... which is an EU Member State,  
the Swiss Confederation or a Contracting Party to the  
EEA Agreement

†Aliens Passport no. .... issued on the  
..... day of ..... by the authorities of  
..... which is an authority recognised  
by the Irish Government

†refugee travel document no. .... issued  
on the ..... day of ..... by the Minister for  
Justice and Equality

† travel document (other than refugee travel  
document) ..... issued on the  
..... day of ..... by the Minister for Justice and  
Equality]

.....  
Deponent \*Commissioner for Oaths/ \*Practising Solicitor

This affidavit is filed with the District Court Clerk at..... on the .....  
day of ..... 20.... by ..... on behalf of the claimant.

\*Delete where inapplicable.

†Where relevant, select appropriate option and delete others.

53A.01

Small Claims Procedure: Application to Small Claims Registrar

Schedule C  
Order 53A r. 3

AN CHÚIRT DÚICHE  
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of ..... District No. ....

District Court Small Claims Procedure

APPLICATION TO SMALL CLAIMS REGISTRAR

CLAIMANT: Name and address of  
person making the claim

RESPONDENT: Name and address of  
person against whom the claim is  
made

.....  
.....  
.....  
.....  
.....  
.....

.....  
.....  
.....  
.....  
.....  
.....

**If you do not identify the correct legal name of the respondent, your claim cannot be enforced.**

CLAIM: Set out the particulars of the claim.

.....  
.....  
.....  
.....  
.....  
.....

I hereby apply to have the above claim processed through the Small Claims Procedure in accordance with the provisions of the District Court Rules.

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

Signature of the person making the claim

To the Small Claims Registrar,  
District Court Office, at .....

Note: This application must be accompanied by the appropriate fee.

53A.02

Small Claims Procedure: Notice of claim against Respondent

Schedule C  
Order 53A r. 5

AN CHÚIRT DÚICHE  
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of ..... District No. ....

District Court Small Claims Procedure

NOTICE OF CLAIM AGAINST RESPONDENT

CLAIMANT: Name and address of  
person making the claim

RESPONDENT: Name and address of  
person against whom the claim is  
made

.....  
.....  
.....  
.....  
.....  
.....

.....  
.....  
.....  
.....  
.....  
.....

PARTICULARS OF CLAIM

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....\*(the contract having been made in said court area/district)

A copy of the claim (Form 53A.1) is attached.

IF YOU ADMIT THE CLAIM, you should complete and detach form 53A.3 and return it to the Small Claims Registrar within 15 days of receipt of this notice.

IF YOU DISPUTE THE CLAIM, you should complete and detach form 53A.4 and return it to the Small Claims Registrar within 15 days of receipt of this notice.

If you believe that the details given of the respondent are incorrect and you are connected with the correct respondent, please arrange to have the appropriate



form completed and returned by the correct respondent within 15 days of receipt of this notice.

IF YOU WISH TO DISCUSS THE CLAIM with the Small Claims Registrar you should contact \*him/\*her at the address below within 15 days of receipt of this notice.

IF YOU DO NOTHING ABOUT THIS NOTICE YOU WILL BE HELD TO HAVE ADMITTED THE CLAIM AND THE CLAIMANT MAY PROCEED TO OBTAIN JUDGMENT AGAINST YOU WITHOUT FURTHER NOTICE TO YOU.

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

Small Claims Registrar,  
District Court Office, at .....

To the above-named respondent

\*delete where inapplicable

53A.03

Small Claims Procedure: notice of acceptance of liability

Schedule C  
Order 53A r. 6

AN CHÚIRT DÚICHE  
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of ..... District No. ....

District Court Small Claims Procedure

NOTICE OF ACCEPTANCE OF LIABILITY

CLAIMANT: Name and address of  
person making the claim

RESPONDENT: Name and  
address of person against whom  
the claim is made

.....  
.....  
.....  
.....  
.....  
.....

.....  
.....  
.....  
.....  
.....  
.....

I admit the claim made against me in the above matter and

\*I agree to pay the amount claimed and enclose herewith applicable  
cheque/postal order(s) /money orders(s), made payable to the claimant, for  
the sum of €..... in full settlement.

\*I agree to pay the amount claimed and I will refund the full amount to  
the claimant when the goods are returned by the claimant.

\*I consent to judgment being given against me.

\*I wish to pay the amount claimed by instalments of €..... per \*week/  
\*month.

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

.....  
Signature of the Respondent

To: the Small Claims Registrar,  
District Court Office,  
at .....

\*delete where inapplicable

53A.04

Small Claims Procedure: notice of dispute

Schedule C  
Order 53A r. 7

AN CHÚIRT DÚICHE  
THE DISTRICT COURT

Dublin Metropolitan District/District Court Area of ..... District No. ....

District Court Small Claims Procedure

NOTICE OF DISPUTE

CLAIMANT: Name and address of person making the claim

.....  
.....  
.....

RESPONDENT: Name and address of person against whom the claim is made

.....  
.....  
.....

\*I deny the claim made against me in the above matter for the following reasons(s):

.....  
.....  
.....

\*I wish to counterclaim for the sum of €..... for the following reasons(s):—

.....  
.....  
.....

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

.....  
Signature of the Respondent

To: the Small Claims Registrar,  
District Court Office,  
at .....

\*delete where inapplicable

Order 53A, rule 13, District Court Rules: The Claimant and the respondent shall be liable for their own legal costs and witnesses' expenses (if any) incurred under the Small Claims Procedure.

Where a counterclaim is made, this notice must be accompanied by the appropriate fee.

**53B.01**

## European Small Claims Procedure: Form A/Claim form

(Article 4(1) of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

Schedule C  
Order 53B r. 1

<p>Case number (*) Received by the Court on:..... /..... /..... (*) (*) To be filled in by the Court</p>
--

**IMPORTANT INFORMATION**

PLEASE READ THE GUIDELINES AT THE BEGINNING OF EACH SECTION — THEY WILL HELP YOU TO FILL IN THIS FORM

**Language**

Fill in this form in the language of the court to which you are sending your application. Please note that the form is available in all official languages of the institutions of the European Union on the website of the European Judicial Atlas at [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm). This may help you in filling in the form in the required language.

**Supporting documents**

Please note that the claim form should be accompanied, where appropriate, by any relevant supporting documents. However, this does not prevent you from submitting, where appropriate, further evidence during the procedure.

A copy of the claim form and, where appropriate, of the supporting documents, will be served on the defendant. The defendant will have an opportunity to submit a response.

*1. Court/tribunal*

In this field you should identify the court/tribunal before which you are making your claim. When deciding which court/tribunal to choose, you need to consider the grounds for the court's/tribunal's jurisdiction. A non-exhaustive list of possible grounds of jurisdiction is included in section 4.

<p>1. Before which court/tribunal are you making your claim? 1.1 Name: ..... District Court ..... 1.2 Street and number/PO Box: ..... 1.3 City and postal code: ..... 1.4 Country: ..... Ireland .....</p>
--

## 2. Claimant

This field must identify you as the claimant and your representative, if any. Please note that it is not mandatory to be represented by a lawyer or another legal professional.

It may not be sufficient in some countries to give only a PO Box as the address and you should therefore include the street name and number with a postcode. Failure to do so may result in the document not being served.

'Other details' may contain information that helps to identify you, for example, your date of birth, occupation, position in the company, personal ID code and the company registry code in certain Member States.

Where there is more than one claimant, please use additional sheets.

### 2. The claimant's details

- 2.1 Surname, first name/name of company or organisation: .....
- 2.2 Street and number/PO Box: .....
- 2.3 City and postal code: .....
- 2.4 Country: .....
- 2.5 Telephone (\*): .....
- 2.6 E-mail (\*): .....
- 2.7 Claimant's representative, if any, and contact details (\*): .....
- 2.8 Other details (\*): .....

## 3. Defendant

In this field you should identify the defendant and, if known, his representative. Please note that it is not mandatory for the defendant to be represented by a lawyer or another legal professional.

It may not be sufficient in some countries to give only a P.O. Box as the address and therefore you should include the street name and number with a postcode. Failure to do so may result in the document not being served.

'Other details' may contain information that helps to identify the person, for example the date of birth, occupation, position in the company, personal ID code and company registry code in certain Member States. If there is more than one defendant, please use additional sheets.

### 3. The defendant's details

- 3.1 Surname, first name/name of company or organisation: .....
- 3.2 Street and number/PO box: .....
- 3.3 City and postal code: .....
- 3.4 Country: .....
- 3.5 Telephone (\*): .....
- 3.6 E-mail (\*): .....
- 3.7 Defendant's representative, if known and contact details .....
- 3.8 Other details (\*): .....

#### 4. Jurisdiction

Your application must be lodged with the court/tribunal that has jurisdiction to deal with it. The court/ tribunal must have jurisdiction in accordance with the rules of Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

This section includes a non-exhaustive list of possible grounds for jurisdiction.

Information on the rules of jurisdiction can be found on the web-site of the European Judicial Atlas at [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm).

You can also look at [http://ec.europa.eu/civiljustice/glossary/glossary\\_en.htm](http://ec.europa.eu/civiljustice/glossary/glossary_en.htm) for an explanation of some of the legal terms employed.

#### 4. On what ground do you consider the court/tribunal to have jurisdiction?

4.1 Domicile of the defendant

4.2 Domicile of the consumer

4.3 Domicile of the policyholder, the insured or the beneficiary in insurance matters

4.4 Place of performance of the obligation in question

4.5 Place of the harmful event

4.6 Place where the immovable property is situated

4.7 Choice of court/tribunal agreed by the parties

4.8 Other (please specify):

(\*) *Optional*

#### 5. Cross-border nature of the case

In order to make use of the European Small Claims Procedure, your case must be of a cross-border nature. A case is of a cross-border nature if at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court/tribunal.

#### 5. Cross-border nature of the case

5.1 Country of domicile or habitual residence of claimant: .....

5.2 Country of domicile or habitual residence of defendant: .....

5.3 Member State of the court/tribunal: .....

### 6. *Bank details (optional)*

In field 6.1 you may inform the court/tribunal by which means you intend to pay the application fee. Please note that not all methods are necessarily available at the court/tribunal to which you are sending your application. You should verify which methods of payment will be accepted by the court/tribunal. You can do this by contacting the court/tribunal concerned or by consulting the website of the European Judicial Network in Civil and Commercial Matters at <http://eueuropa.eu/civiljustice>.

If you choose to pay by credit card or to allow the court/tribunal to collect the fee from your bank account, you should give the necessary credit card or bank account details in the Appendix to this form. The Appendix will be for the information of the court/tribunal only and will not be forwarded to the defendant.

In field 6.2 you are given the possibility of indicating by which means you wish to receive payment from the defendant, for example if the defendant wishes to pay immediately even before the judgment is given, if you wish to be paid by bank transfer, please give the necessary bank details.

#### 6. *Bank details (\*)*

6.1 How will you pay the application fee?

6.1.1 By bank transfer

6.1.2 By credit card  (please fill in the Appendix)

6.1.3 Direct debit from your bank account  (please fill in the Appendix)

6.1.4 Other (please specify): .....

6.2 To which account do you wish the defendant to pay *any* amount claimed or awarded?

6.2.1 Account holder: .....

6.2.2 Bank name, BIC or other relevant bank code.....

6.2.3 Account number/IBAN: .....

### 7. *Claim*

Scope: Please note that the European Small Claims Procedure has a limited scope. No claims of a value higher than EUR 2000 or which are listed in Article 2 of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure can be dealt with under this procedure, if your claim does not relate to an action within the scope of that Regulation in accordance with Article 2, proceedings will continue before the courts/tribunals with jurisdiction in accordance with the rules of ordinary civil procedure. If you do not wish to continue proceedings in that event, you should withdraw your application.

Monetary or other claim: You should indicate whether you are claiming money and/or something else (non-monetary claim), for example, delivery of goods, and then fill in respectively either 7.1 and/or 7.2 if your claim is not for money,



please indicate the estimated value of your claim. In the case of a non-monetary claim, you should indicate whether you have a secondary claim for compensation if it is not possible to satisfy the original claim.

If you wish to claim the costs of the proceedings (e.g. translation costs, lawyers' fees, costs relating to the service of documents etc.), then you should indicate this in 7.3. Please note that rules regarding the costs which courts/tribunals can award vary between different Member States. Details of categories of costs in the Member States can be found on the website of the European Judicial Network in Civil and Commercial Matters at <http://ec.europa.eu/civiljustice>.

If you wish to claim any contractual interest, for example on a loan, you should indicate the rate and from what date it runs. The court/tribunal may award statutory interest on your claim, if you are successful, if you wish to claim interest, please indicate this and the date from which the interest should run.

7. About your claim		
<input type="checkbox"/> 7.1 Claim for money		
7.1.1 Amount of principal (excluding interest and costs)		
7.1.2 Currency		
<input type="checkbox"/> Euro (EUR)	<input type="checkbox"/> Bulgarian lev (BGN)	<input type="checkbox"/> Cypriot pound (CYP)
<input type="checkbox"/> Czech koruna (CZK)	<input type="checkbox"/> Estonian kroon (EEK)	<input type="checkbox"/> Pound Sterling (GBP)
<input type="checkbox"/> Hungarian forint (HUF)	<input type="checkbox"/> Latvian lats (LVL)	<input type="checkbox"/> Lithuanian litas (LTL)
<input type="checkbox"/> Maltese lira (MTL)	<input type="checkbox"/> Polish zloty (PLN)	<input type="checkbox"/> Romanian leu (RON)
<input type="checkbox"/> Swedish kronor(SEK)	<input type="checkbox"/> Slovak koruna (SKK)	
<input type="checkbox"/> Other (please specify):.....		
7.2 Other claim:		
7.2.1 Please specify what you are claiming: .....		
7.2.2 Estimated value of claim: .....		
Currency:		
<input type="checkbox"/> Euro (EUR)	<input type="checkbox"/> Bulgarian lev (BGN)	<input type="checkbox"/> Cypriot pound (CYP)
<input type="checkbox"/> Czech koruna (CZK)	<input type="checkbox"/> Estonian kroon (EEK)	<input type="checkbox"/> Pound Sterling (GBP)
<input type="checkbox"/> Hungarian forint (HUF)	<input type="checkbox"/> Latvian lats (LVL)	<input type="checkbox"/> Lithuanian litas (LTL)
<input type="checkbox"/> Maltese lira (MTL)	<input type="checkbox"/> Polish zloty (PLN)	<input type="checkbox"/> Romanian leu (RON)
<input type="checkbox"/> Swedish kronor(SEK)	<input type="checkbox"/> Slovak koruna (SKK)	
<input type="checkbox"/> Other (please specify):.....		

7.3 Are you claiming the costs of proceedings-

7.3.1 Yes

7.3.2 No

7.3.3 If yes, please specify which costs and indicate the amount claimed or incurred so far:

7.4 Are you claiming interest-

Yes

No

if yes, is the interest:

Contractual?  if so, go to 7.4.1

Statutory?  If so, go to 7.4.2

7.4.1 If contractual

(1) the rate is:

..... %

.....% above the base rate of the ECB

other:.....

(2) the interest should run from:..... /..... /..... (date)

7.4.2 If statutory

the interest should run from:..... /..... /..... (date)

8. *Details of claim*

8.1 Please give reasons for your claim, for example what happened, where and when.

8.2 Please describe the evidence you wish to put forward to support your claim and state which points of the claim it supports. Where appropriate, you should add relevant supporting documents.

8.2.1 Written evidence	<input type="checkbox"/> please specify below
8.2.2 Witnesses	<input type="checkbox"/> please specify below
8.2.3 Other	<input type="checkbox"/> please specify below

*Oral hearing:* Please note that the European Small Claims Procedure is a written procedure. However, you can request, in this form or at a later stage, that an oral hearing be held. The court/tribunal may decide to hold an oral hearing if it considers it necessary for the fair conduct of the proceedings or it may refuse it, having regard to all the circumstances of the case.

8.3. Do you want an oral hearing to be held?

Yes

No

If yes, please indicate reasons (\*)

### 9. Certificate

A judgment given in a Member State in the European Small Claims Procedure can be recognised and enforced in another Member State. If you intend to ask for recognition and enforcement in a Member State other than that of the court/tribunal, you can request in this form that the court/tribunal, after having made a decision in your favour, issue a certificate concerning that judgment.

#### 9. Certificate

I ask the court/tribunal to issue a certificate concerning the judgment

Yes

No

### 10. Date and signature

Please make sure that you write your name clearly and sign and date your application at the end.

I hereby request that the court/tribunal give a judgment against the defendant on the basis of my claim.

I declare that the information provided is true to the best of my knowledge and is given in good faith.

Done at:.....

Date:..... /...../.....

Name and signature

(\*) *Optional*

*Appendix to the claim form (Form A)*

Bank details (\*) for the purposes of payment of the application fee

Account holder/credit card holder: .....
Bank name, BIC or other relevant bank code/credit card company: .....
Account number of IBAN/credit card number, expiry date and security number of the credit card:.....

(\*) Optional

53B.02

European Small Claims Procedure: notice of motion for refusal, stay or limitation of enforcement

(Article 22 or 23 of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

Schedule C  
Order 53B r. 17

District Court Area of

District No.

Case number:

..... Applicant

..... Claimant

NOTICE OF MOTION

Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure

TAKE NOTICE that the above applicant of.....in the above Court \*(area and) district intends to apply to the District Court at..... on the ..... day of ..... 20... (the “return date”) at .....a.m./p.m. for an order

\*under Article 22 of the above-mentioned Regulation refusing enforcement in the State of a judgment in a European Small Claim by the claimant against the applicant given by the ..... court/tribunal of ..... on the ..... day of ..... 20...

\*under Article 23 of the above-mentioned Regulation, limiting to protective measures

\*under Article 23 of the above-mentioned Regulation making conditional on the provision of such security as the Court may determine

\*under Article 23 of the above-mentioned Regulation staying

enforcement in the State of a judgment in a European Small Claim by the claimant against the applicant given by the ..... court/tribunal of ..... on the ..... day of ..... 20...

A. The grounds for the application are as follows: .....  
..... [set out in summary the grounds of the application].

B. Particular legal provisions relied on in the application .....  
..... [identify any particular legal provisions relied on in the application].

LIST OF CORRESPONDENCE BETWEEN THE PARTIES RELEVANT TO THE SUBJECT MATTER OF THE MOTION, COPIES OF WHICH ARE ATTACHED

	Document	Date	Description
1	<i>e.g. letter</i>	<i>1 September 2013</i>	<i>Letter from the claimant to the respondent</i>
2	<i>e.g. letter</i>	<i>10 September 2013</i>	<i>Letter from the respondent to the claimant</i>
Etc			

\*This application will be supported by the affidavit of .....sworn on the ..... day of ..... 20...

Signed: .....  
\*(Solicitor for the) Applicant

And to ..... claimant of .....

And to: District Court Clerk at .....

This notice of motion was filed at.....on the ..... day of ..... 20... with .....the District Court Clerk assigned to the above Court area and district and issued returnable to the return date given above.

\*Delete where inapplicable

EXPLANATORY NOTE

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

These rules amend the District Court Rules to provide a revised civil procedure in that Court and to facilitate the increase in the monetary jurisdiction of the District Court provided for in Part 3 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013 (No. 32 of 2013).

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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