



STATUTORY INSTRUMENTS.

**S.I. No. 161 of 2016**



RULES OF THE SUPERIOR COURTS (CHOICE OF COURT (HAGUE  
CONVENTION) ACT 2015) 2016

S.I. No. 161 of 2016

RULES OF THE SUPERIOR COURTS (CHOICE OF COURT (HAGUE  
CONVENTION) ACT 2015) 2016

We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, by virtue of the powers conferred upon us by The Courts of Justice Act 1924, section 36, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Courts (Supplemental Provisions) Act 1961, section 14, the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972) and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 28th day of January 2016.

Sean Ryan  
Peter Kelly  
Mary Laffoy  
Anthony Barr  
Conor Dignam  
Gerard Meehan  
Stuart Gilhooly  
Michael Kavanagh  
Mary Cummins  
Noel Rubotham

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

Dated this 12th day of April, 2016.

Signed: FRANCES FITZGERALD,  
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 15th April, 2016.*

S.I. No. 161 of 2016

RULES OF THE SUPERIOR COURTS (CHOICE OF COURT (HAGUE  
CONVENTION) ACT 2015) 2016

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Choice of Court (Hague Convention) Act 2015) 2016, shall come into operation on the 10th day of May 2016.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2016.

2. The Rules of the Superior Courts are amended by the insertion immediately following Order 42C of the Order set out in Schedule 1.

3. The Rules of the Superior Courts are amended by the insertion immediately following Form No 4 in Part IV of Appendix F of the title and form set out in Schedule 2.

**Schedule 1**

**“Order 42D**

**Enforcement of Judgments and Judicial Settlements under the Choice of Court (Hague Convention) Act 2015**

1. In and for the purposes of this Order:

“2015 Act” means the Choice of Court (Hague Convention) Act 2015;

“Contracting State”, “Convention” and “judgment” each has the same meaning as in section 1 of the 2015 Act.

2. (1) An application pursuant to Chapter III of the Convention and section 5 of the 2015 Act for recognition or enforcement in the State of a judgment given in a Contracting State shall be made *ex parte* to the Master.

(2) An application referred to in sub-rule (1) shall be made by motion *ex parte* grounded upon an affidavit which shall:

- (a) confirm whether the judgment provides for the payment of a sum of money, and if so, the sum concerned;
- (b) confirm whether, in accordance with the law of the Contracting State in which the judgment was given, interest on that sum is recoverable under the judgment at a particular rate or rates and from a particular date or time, and if so, the rate or rates and date or time concerned;
- (c) specify whether any damages awarded by the judgment include any exemplary or punitive damages, that do not compensate a party for actual loss or harm suffered and, if so, the amount of such exemplary or punitive damages;
- (d) specify whether and to what extent the damages awarded by the court of origin serve to cover costs and expenses relating to the proceedings;
- (e) provide the address for service of proceedings on the party making the application and, to the best of the deponent’s knowledge and belief, the name and usual or last known address or place of business of the person against whom judgment was given;
- (f) set out the grounds on which the right to enforce the judgment is vested in the party making the application;
- (g) as the case may require, confirm that at the date of the application the judgment has not been satisfied, or the judgment has not been fully satisfied, and the part or amount in respect of which it remains unsatisfied, and
- (h) specify the protective measures (if any) requested by the applicant under section 9 of the 2015 Act.

(3) The affidavit shall exhibit:

- (a) a complete and certified copy of the judgment;
- (b) the exclusive choice of court agreement, a certified copy thereof, or other evidence of its existence;
- (c) if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party;
- (d) any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the Contracting State of origin;
- (e) where a document in the form recommended and published by the Hague Conference on Private International Law concerning the judgment or judicial settlement has been issued by a court (including an officer of the court) of the Contracting State of origin, that document.

(4) Where the terms of the judgment and any documents exhibited as required by sub-rule (3) do not permit verification that the conditions of Chapter III of the Convention have been complied with, the affidavit shall verify such compliance and exhibit any additional documents necessary for the purpose.

3. Where any judgment or document which is required for the purposes of this Order is not in one of the official languages of the State, a translation thereof into the Irish or English language certified by a person competent and qualified for the purpose, shall be admissible as evidence of same. The competence and qualification of the translator shall be verified by affidavit.

4. Where the party making the application under rule 2 does not produce the documents referred to in that rule, the Master may, if he sees fit, adjourn the application to allow the applicant an opportunity to produce those documents. In the case of any document which is not required by Article 13 of the Convention to be produced, the Master may alternatively, accept an equivalent document, or dispense with the production of the document.

5. An enforcement order shall state the period in accordance with this Order within which an appeal may be made against the enforcement order, and shall contain a notification that execution of the judgment will not issue until after the expiration of that period.

6. Notice of the making of an enforcement order shall be served together with a copy of the enforcement order on the person against whom the enforcement order was made by delivering it to him personally or in such other manner as the Master may direct. Where relevant, the provisions of Order 11E shall apply in relation to such a notice as they apply in relation to an originating summons. Service of an enforcement order pursuant to this rule shall not require an order of the Court made under Order 11.

7. The notice of enforcement shall state:

- (a) full particulars of the judgment declared to be enforceable and of the enforcement order;
- (b) the name and address of the party making the application and his address for service;
- (c) the right of the person against whom the enforcement order was made to appeal to the High Court against the enforcement order, and
- (d) the period within which an appeal against the enforcement order may be made.

8. If the application for recognition or enforcement of the judgment is allowed by the Master, the party against whom enforcement is sought may appeal against the enforcement order to the High Court within five weeks of service of the notice of enforcement. All such appeals may be brought by notice of motion which shall be served on the party in whose favour the enforcement order was granted by the Master. The High Court shall have power to stay the proceedings, on such terms as it sees fit.

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

10. Execution shall not issue on a judgment in respect of which an enforcement order has been made until after the expiration of the period specified in rule 8, or if that period has been extended by the Court, until after the expiration of any such extended period. If an appeal is made to the High Court under rule 8, execution of the judgment shall not issue until after such appeal (including any further appeal to the Court of Appeal or the Supreme Court) is determined. Any party wishing to issue execution on a judgment in respect of which an execution order has been made must produce to the appropriate officer an affidavit of service of the execution order concerned and of any order made by the High Court, the Court of Appeal and/or the Supreme Court (as the case may be) in relation to the judgment.

11. (1) The foregoing provisions of this Order shall apply as appropriate to an application for enforcement of a judicial settlement referred to in Article 12 of the Convention which a court of a Contracting State designated in an exclusive choice of court agreement has approved, or which has been concluded before that court in the course of proceedings, and which is enforceable in the same manner as a judgment in the Contracting State of origin.

(2) In an application mentioned in sub-rule (1), the affidavit shall additionally exhibit the certificate of a court of the Contracting State of origin referred to in

Article 13(1)(e) of the Convention that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the Contracting State of origin.

12. (1) In the case of a judgment or decision of the High Court, the Court of Appeal or the Supreme Court sought to be enforced in another Contracting State:

- (a) a Registrar of the High Court, the Registrar of the Court of Appeal or the Registrar of the Supreme Court (as the case may be) shall, at the request of an interested party, give such party a copy of the order and the written judgment (if any) of the Court duly authenticated, and
- (b) any application for the document referred to in Article 13(1)(d) of the Convention signed by a Registrar of the High Court, the Registrar of the Court of Appeal or the Registrar of the Supreme Court (as the case may be) shall be made on affidavit to the said Registrar.

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

- (a) specify the judgment or decision concerned and exhibit a certified copy thereof;
- (b) contain an averment that the court had jurisdiction to give the judgment or decision concerned pursuant to an exclusive choice of court agreement enforceable in the State;
- (c) state the date on which the time for the lodging of an appeal against the judgment or decision will expire or, if it has expired, the date on which it expired;
- (d) state whether notice of appeal against, or in any case where the defendant does not appear, a notice to set aside, the judgment or decision has been entered;
- (e) confirm that the judgment or decision is not the subject of a stay remaining unexpired;
- (f) state whether the judgment is for the payment of a sum of money, the rate of interest, if any, payable on the sum and the date from which interest is payable.

(3) The document referred to in Article 13(1)(d) of the Convention and in sub-rule (1)(b) shall be in the form No 1 in Part V of Appendix F.”

**Schedule 2**

**Part V**

No 1

O. 42D, r. 12(3)

\*THE SUPREME COURT

\*THE COURT OF APPEAL

\*THE HIGH COURT

In the matter of Article 13(1)(d) of the Convention on Choice of Court Agreements done at The Hague on the 30th day of June 2005 and approved on behalf of the European Union pursuant to Council Decision 2014/887/EU

Between *AB*,

Plaintiff

and *CD*

Defendant

I certify that the order of the court in the above proceedings made on the ..... day of .....20.... a certified copy of which is appended to this certificate:

- (a) is not the subject of an appeal which remains to be determined, and
- (b) is not the subject of a stay which remains unexpired, and
- (c) \*has effect \*is enforceable in this State.

Dated

Signed

Registrar

For the Court

\*Delete where inapplicable



EXPLANATORY NOTE

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

These rules amend the Rules of the Superior Courts by the insertion of a new Order 42D and a new Part V containing Form No.1 in Appendix F to facilitate the operation of the Choice of Court (Hague Convention) Act 2015.

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.

---

DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased from  
GOVERNMENT PUBLICATIONS,  
52 ST. STEPHEN'S GREEN, DUBLIN 2.  
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)  
or through any bookseller.

---

€3.05



Wt. (B31905). 285. 4/16. Essentra. Gr 30-15.