



STATUTORY INSTRUMENTS.

S.I. No. 312 of 2017



EUROPEAN COMMUNITIES (EUROPEAN SMALL CLAIMS
PROCEDURE AND EUROPEAN ORDER FOR PAYMENT)
(AMENDMENT) REGULATIONS 2017

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I, CHARLES FLANAGAN, Minister for Justice and Equality, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving full effect to Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (European Small Claims Procedure and European Order for Payment) (Amendment) Regulations 2017.

(2) These Regulations come into operation on 14 July 2017.

2. In these Regulations—

“European Order for Payment Regulations” means the European Communities (European Order for Payment) Regulations 2008 (S.I. No. 525 of 2008), as amended by the European Communities (European Order for Payment) (Amendment) Regulations 2017 (S.I. No. 82 of 2017);

“European Small Claims Procedure Regulations” means the European Communities (European Small Claims Procedure) Regulations 2008 (S.I. No. 533 of 2008).

3. The European Small Claims Procedure Regulations are amended—

(a) in Regulation 2, by the substitution of the following for paragraph (1):

“(1) In these Regulations, “European Small Claims Regulation” means Regulation (EC) No. 861/2007 of the European Parliament and of the Council of 11 July 2007², as amended by Council Regulation (EU) No. 517/2013 of 13 May 2013³ and Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015¹.”,

(b) in Regulation 3, by the substitution of “Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012⁴ on jurisdiction and the recognition and enforcement

¹OJ No. L341, 24.12.2015, p.1

²OJ No. L199, 31.07.2007, p.1.

³OJ No. L158, 10.06.2013, p.1.

⁴OJ No. L351, 20.12.2012, p. 1.

of judgments in civil and commercial matters.” for “Council Regulation (EC) No. 44/2001 of 22 December 2000⁵ on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.”;

(c) by the insertion of the following after Regulation 3:

“(3A) No appeal shall lie from the dismissal by the District Court of an application for the reasons specified in the second subparagraph of paragraph (4) of Article 4.”, and

(d) in Regulation 4, by the insertion after “Procedure” of “and a court settlement approved by or concluded before a court or tribunal in the course of the European Small Claims Procedure and that is enforceable in the Member State in which the procedure was conducted”.

4. The European Order for Payment Regulations are amended—

(a) in Regulation 2, by the substitution of the following for paragraph (1):

“(1) In these Regulations, ‘Order for Payment Regulation’ means Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006⁶, as amended by Commission Regulation (EU) No. 936/2012 of 4 October 2012⁷, Council Regulation (EU) No. 517/2013 of 13 May 2013³ and Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015¹”,

and

(b) by the substitution of the following for Regulation 9:

“9. (1) Subject to paragraph (5), paragraph (2) shall apply to a claim where a statement of opposition is lodged in accordance with Article 16 and—

(a) the claimant has indicated that he or she requests, in that event, the procedure listed in point (b) of paragraph (1) of Article 17 to be applied to his or her claim,

(b) the claimant has not indicated which of the procedures listed in points (a) and (b) of paragraph (1) of Article 17 he or she requests, in that event, to be applied to his or her claim, or

(c) paragraph (3) applies and the Master of the High Court is satisfied that the European Small Claims Procedures is not applicable to the claim.

⁵OJ No. L12, 16.01.2001, p. 1.

⁶OJ No. L399, 30.12.2006, p. 1.

⁷OJ No. L283, 16.10.2012, p. 1.

³OJ No. L158, 10.06.2013, p.1.

¹OJ No. L341, 24.12.2015, p.1

(2) Where this paragraph applies to a claim:

(a) the Master of the High Court shall—

- (i) where the claim could have been prosecuted by way of proceedings in the Circuit Court, remit the proceedings to the Circuit Court, to be prosecuted before the Judge assigned to such circuit as to the Master shall appear suitable or convenient,
- (ii) where such claim could have been prosecuted by way of proceedings in the District Court, remit the proceedings to the District Court, to be prosecuted before the Judge assigned to such district as to the Master shall appear suitable or convenient,
- (iii) where neither subparagraph (i) nor (ii) applies to the claim, remit the matter for plenary hearing by the High Court,

(b) the application for the European order for payment concerned shall be treated for the purposes of the proceedings as—

- (i) in the case of the High Court, the originating summons and statement of claim,
- (ii) in the case of the Circuit Court, the civil bill,
- (iii) in the case of the District Court, the claim notice,

and the defendant shall be treated as having entered an appearance and a defence in relation to the proceedings;

(c) the proceedings shall be conducted in accordance with the procedure prescribed by rules of court for proceedings in the court concerned, with such modifications as may be necessary to give effect to the Order for Payment Regulation.

(3) Where a statement of opposition is lodged in accordance with Article 16 and the claimant has indicated that he or she requests, in that event, the European Small Claims Procedure to be applied to his or her claim, the Master of the High Court shall consider whether the European Small Claims Procedure is applicable to the claim.

(4) Where paragraph (3) applies, and the Master of the High Court is satisfied that the European Small Claims Procedure is applicable to the claim, he or she shall remit the proceedings to the District Court, to be prosecuted in accordance with that procedure before the Judge

assigned to such district as to the Master shall appear suitable or convenient.

(5) Where a statement of opposition is lodged in accordance with Article 16, the proceedings shall be terminated where—

(a) the claimant has explicitly requested that the proceedings be terminated in that event, or

(b) subparagraph (b) or (c) of paragraph (1) applies to the claim, but the claimant has explicitly requested that the transfer under paragraph (2)(a) of the proceedings not be made.

(6) In this Regulation, “claim” means a claim to which the European order for payment relates.”.



GIVEN under my Official Seal,
13 July 2017.

CHARLES FLANAGAN,
Minister for Justice and Equality.

EXPLANATORY NOTE

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

This Regulation makes provision for administrative and procedural arrangements associated with the coming into operation on 14 July 2017 of Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure.

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(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.

€2.54

