



STATUTORY INSTRUMENTS.

S.I. No. 457 of 2017

RULES OF THE SUPERIOR COURTS (JURISDICTION,
RECOGNITION AND ENFORCEMENT OF JUDGMENTS) 2017

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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, and reconstituted pursuant to the provisions of the Courts of Justice Act 1953, section 15, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, 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 20th day of July, 2017.

Susan Denham

Sean Ryan

Peter Kelly

Elizabeth Dunne

Mary Finlay Geoghegan

Deirdre Murphy

Michael Kavanagh

Noel Rubotham

John Mahon

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

Dated this 18th day of October, 2017.

CHARLES FLANAGAN
Minister for Justice and Equality

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 24th October, 2017.*

S.I. No. 457 of 2017

RULES OF THE SUPERIOR COURTS (JURISDICTION,
RECOGNITION AND ENFORCEMENT OF JUDGMENTS) 2017

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Jurisdiction, Recognition and Enforcement of Judgments) 2017, shall come into operation on the 1st day of November 2017.

(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 2017.

2. The Rules of the Superior Courts are amended:

(i) by the substitution for sub-rules (4), (5) and (6) of rule 23 of Order 42A of the following sub-rules:

“(4) The following applications to the Court concerning a judgment, authentic instrument or court settlement referred to in sub-rule (2) shall be made:

(a) where no proceedings concerning the judgment, authentic instrument or court settlement referred to in sub-rule (2) have already been commenced before the Court, by originating notice of motion to the Court entitled “In the matter of Regulation No. 1215/2012” and grounded upon an affidavit sworn by or on behalf of the moving party, or

(b) where proceedings concerning the same judgment, authentic instrument or court settlement referred to in sub-rule (2) have already been commenced before the Court, by motion on notice in those proceedings, grounded upon an affidavit sworn by or on behalf of the moving party:

(i) an application pursuant to Article 45 of Regulation No. 1215/2012 for refusal of recognition;

(ii) an application pursuant to Article 46 of Regulation No. 1215/2012 for refusal of enforcement;
or

(iii) an application on the grounds set out in Article 38 of Regulation No. 1215/2012 to suspend proceedings before the Court.

(5) An application to the Court for a decision under Article 36.2 of Regulation No. 1215/2012 that there are no grounds for refusal of recognition of a judgment, authentic instrument or court settlement referred to in sub-rule (2) may be made:

- (a) where no proceedings concerning the judgment, authentic instrument or court settlement referred to in sub-rule (2) have already been commenced before the Court, by originating motion *ex parte* to the Court entitled “In the matter of Regulation No. 1215/2012” and grounded upon an affidavit sworn by or on behalf of the moving party; or
- (b) where proceedings concerning the same judgment, authentic instrument or court settlement referred to in sub-rule (2) have already been commenced before the Court, by motion *ex parte* in those proceedings, grounded upon an affidavit sworn by or on behalf of the moving party,

provided that the Court may, upon the hearing of any such application *ex parte*, if it considers it necessary in the interests of justice, direct that the application be made on notice to the judgment debtor concerned or, as the case may be, on notice to the opposing party in the proceedings mentioned in paragraph (b).

(6) Save where the Court, being satisfied as to the urgency of the application, otherwise permits, copies of any originating notice of motion or notice of motion and affidavit referred to in sub-rule (4) (and any exhibits to that affidavit) shall be served by the moving party (a) not later than seven days before the date fixed for the hearing of the originating notice of motion or notice of motion, on the opposing party or person by or against whom enforcement is sought and (b) on such other person or persons as the Court may direct.

(7) A party or (in the case of an authentic instrument) person who can demonstrate his or her entitlement to the benefit of a judgment, authentic instrument or court settlement referred to in sub-rule (2) shall be at liberty to apply to the proper officer in the Central Office to cause particulars of the judgment, authentic instrument or court settlement to be entered in the books kept for the purpose set out in Order 41, rule 6 in the like manner as is provided for in Order 41, rule 6 in relation to domestic judgments. For the avoidance of doubt, such a person shall not be obliged to apply to the proper officer for this purpose.”

EXPLANATORY NOTE

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

These rules substitute sub-rules (4), (5), (6) and (7) for sub-rules (4), (5) and (6) of rule 23 of Order 42A of the Rules of the Superior Courts to provide that an application to the Court for a decision under Article 36.2 of Regulation No. 1215/2012 (that there are no grounds for refusal of recognition of a judgment, authentic instrument or court settlement) may be made *ex parte*, provided that the Court may, if it considers it necessary in the interests of justice, direct that the application be made on notice to the judgment debtor concerned or, as appropriate, the opposing party in the proceedings.

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