



STATUTORY INSTRUMENTS.

**S.I. No. 139 of 2019**



RULES OF THE SUPERIOR COURTS (ORDER 39) 2019

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Rules of the Superior Courts (Order 39) 2019

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, 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 16<sup>th</sup> day of February, 2019.

Frank Clarke                      Chairperson

Michael Peart

Deirdre Murphy

Conor Dignam

Mary Cummins

Noel Rubotham

John Mahon.

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

Dated this 3<sup>rd</sup>. day of April, 2019.

CHARLES FLANAGAN

Minister for Justice and Equality

## S.I. No. 139 of 2019

## Rules of the Superior Courts (Order 39) 2019

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Order 39) 2019, shall come into operation on the 25<sup>th</sup> day of April 2019.

(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 2019.

2. The Rules of the Superior Courts are amended by the substitution for rule 52 of Order 39 of the following rules:

“52. (1) In this rule:

“Central Authority” means the Central Authority of a Member State of the European Union designated in accordance with Article 15 of the 2016 Regulation to fulfil functions relating to the application of the 2016 Regulation;

the “2016 Regulation” means Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6 July 2016 on promoting the free movement of citizens by simplifying the requirements for presenting certain public documents in the European Union and amending Regulation (EU) No 1024/2012;

“public documents” has the same meaning as in Article 3 of the 2016 Regulation and “public document” shall be construed accordingly.

(2) A document which purports to be a public document to which the 2016 Regulation applies (or a certified copy, within the meaning of Article 3(7) of the 2016 Regulation, of a public document) shall, without proof of any formal procedure for certifying the authenticity of a signature, the capacity in which the person signing the document has acted or, where appropriate, the identity of the seal or stamp which it bears, be admissible in evidence as such if otherwise admissible.

(3) In any case in which the Court has a reasonable doubt as to the authenticity of a public document or certified copy produced in accordance with sub-rule (2), it may direct the taking of any step permitted by Article 14 of the 2016 Regulation to dispel such doubt. In any such case the Court shall in its directions set out the grounds upon which they are based.

52A. (1) In this rule:

“Central Authority” means the Central Authority of a Contracting State designated in accordance with Article 5 of the Convention;

the “Convention” means the Convention Abolishing the Legalisation of Documents in the Member States of the European Communities done at Brussels on the 25th May, 1987;

a “Contracting State” means a State which is a party to the Convention other than the State and includes a State which has made a declaration pursuant to Article 6(3) of the Convention;

“document” means and includes any document or documents which are public documents within the meaning of Article 1 of the Convention, but does not include a “public document” within the meaning of rule 52, to which the 2016 Regulation applies.

(2) A document which purports to be a public document within the meaning of Article 1 of the Convention shall, without proof of any formal procedure for certifying the authenticity of a signature, the capacity in which the person signing the document has acted, or where appropriate, the identity of the seal or stamp which it bears, be admissible in evidence as such if otherwise admissible.

(3) In any case in which the Court has serious doubts, with good reason, in relation to any document which is produced as to the authenticity of the signature, the capacity in which the person signing the document has acted, or the identity or seal of the stamp which it bears, it may direct that such information as it thinks relevant be requested in accordance with Article 4 of the Convention from the Central Authority of the State from which the act or document emanated. In any such case the Court shall in its directions set out the grounds upon which they are based.

(4) The provisions of Order 40, rule 7 shall apply mutatis mutandis, where applicable and to the extent required in relation to the taking of judicial notice of the seal or signature as the case may be, of any diplomatic or consular representative or agent, judge, court or notary public lawfully authorised to administer oaths in any of the Contracting States.

(5) This Part shall apply to any document to which the 2016 Regulation or the Convention applies and Parts VIII and IX shall not apply thereto.”

EXPLANATORY NOTE

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

These Rules amend Order 39 of the Rules of the Superior Courts to facilitate the operation of Regulation (EU) 2016/1191 of the European Parliament and of the Council of 6th July 2016 on promoting the free movement of citizens.

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