



STATUTORY INSTRUMENTS

S.I. No. 12 of 2008



RULES OF THE SUPERIOR COURTS (COSTS) 2008

(Prn. A8/0132)

RULES OF THE SUPERIOR COURTS (COSTS) 2008

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, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), and the Courts (Supplemental Provisions) Act 1961, section 14, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 21st day of June, 2007.

John L. Murray
Richard Johnson
Joseph Finnegan
Liam McKechnie
Elizabeth Dunne
Lyndon MacCann
Patrick Groarke
Noel Rubotham
Mary Cummins

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

Dated this 24 day of January , 2008.

BRIAN LENIHAN.
Minister for Justice, Equality and Law Reform

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 1st February, 2008.*

S.I. No. 12 of 2008

RULES OF THE SUPERIOR COURTS (COSTS) 2008

1. Order 99 of the Rules of the Superior Courts is hereby amended by:

(i) the substitution for sub-rules (3) and (4) of rule 1 thereof of the following:

“(3) Subject to sub-rule (4A), the costs of every action, question, and issue tried by a jury shall follow the event unless the Court, for special cause, to be mentioned in the order, shall otherwise direct.

(4) Subject to sub-rule (4A), the costs of every issue of fact or law raised upon a claim or counterclaim shall, unless otherwise ordered, follow the event.

(4A) The High Court or the Supreme Court, upon determining any interlocutory application, shall make an award of costs save where it is not possible justly to adjudicate upon liability for costs on the basis of the interlocutory application.”;

(ii) the insertion immediately following rule 1 thereof of the following:

“1A. (1) Notwithstanding sub-rules (3) and (4) of rule 1—

(a) The Supreme Court, in considering the awarding of the costs of any appeal or any application in respect of an appeal, may, where it considers it just, have regard to the terms of any offer in writing sent by any party to any other party or parties offering to satisfy the whole or part of that other party’s (or those other parties’) claim or counterclaim the subject of the appeal, or application.

(b) The High Court, in considering the awarding of the costs of any action (other than an action in respect of a claim or counterclaim concerning which a lodgment or tender offer in lieu of lodgment may be made in accordance with Order 22) or any application in such an action, may, where it considers it just, have regard to the terms of any offer in writing sent by any party to any other party or parties offering to satisfy the whole or part of that other party’s (or those other parties’) claim, counterclaim or application.

(c) The High Court, in considering the awarding of the costs of any appeal from the Circuit Court, may, where it considers it just, have regard to the terms of

any offer in writing sent by any party to any other party to the appeal offering to satisfy the whole or part of that other party's (or those other parties') claim or counterclaim the subject of the appeal.

(2) In this rule, an "offer in writing" includes any offer in writing made without prejudice save as to the issue of costs. ”;

(iii) the substitution for rule 5 thereof of the following:

“5. (1) Subject to sub-rule (4A) of rule 1, costs may be dealt with by the Court at any stage of the proceedings or after the conclusion of the proceedings; and an order for the payment of costs may require the costs to be paid forthwith, notwithstanding that the proceedings have not been concluded.

(2) In awarding costs, the Court may direct—

(a) that a sum in gross be paid in lieu of taxed costs, or

(b) that a specified proportion of the taxed costs be paid, or

(c) that the taxed costs from or up to a specified stage of the proceedings be paid.

(3) At any stage of the proceedings, the Court may require the parties to produce to the Court and exchange with one another estimates of the costs respectively incurred by them, for such period as the Court may direct, and particularised in such manner as the Court may direct.”

2. These rules shall come into operation on the 21 day of February 2008.

3. These rules shall be construed together with the Rules of the Superior Courts 1986 to 2007 and may be cited as the Rules of the Superior Courts (Costs) 2008.

EXPLANATORY NOTE

(This does not form part of the instrument and does not purport to be a legal interpretation)

These Rules effect certain amendments to Order 99 of the Rules of the Superior Courts concerning the awarding of the costs of interlocutory applications, the consideration by the court of offers in writing when awarding costs and the court's power to require the production and exchange of estimates of costs.

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