



STATUTORY INSTRUMENTS.

S.I. No. 525 of 2008



EUROPEAN COMMUNITIES (EUROPEAN ORDER FOR PAYMENT)
REGULATIONS 2008

(Prn. A8/1955)

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I, DERMOT AHERN, Minister for Justice, Equality and Law Reform, 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 (EC) No. 1896/2006 of 12 December 2006¹ creating a European order for payment procedure, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (European Order for Payment) Regulations 2008.

(2) These Regulations shall come into operation on 12 December 2008.

Interpretation

2. (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 2006¹ creating a European order for payment procedure.

(2) Unless provided otherwise, a word or expression used in these Regulations and in the Order for Payment Regulation has the same meaning in these Regulations as it has in the Order for Payment Regulation.

(3) References in these Regulations to numbered Articles without qualification are references to the Articles so numbered of the Order for Payment Regulation.

Application for a European order for payment and statement of opposition

3. (1) Subject to paragraph (2), an application for a European order for payment in accordance with Article 7(1) shall be made to and determined by the High Court.

(2) The functions of the High Court under Articles 8, 9, 10, 11, 12 and 18 shall be performed by the Master of the High Court.

(3) A defendant wishing to lodge a statement of opposition to a European order for payment in accordance with Article 16 shall lodge that statement with the Central Office of the High Court.

¹ O.J. No. L399, 30.12.2006, p.1.

Amendment of section 25 of Courts and Court Officers Act 1995

4. Section 25 of the Courts and Court Officers Act 1995 (No. 31 of 1995) is amended by the substitution of the following subsections for subsection (5):

“(5) Subject to subsections (5A) and (5B), all orders of the Master of the High Court shall be subject to appeal to the High Court.

(5A) Subsection (5) does not apply in relation to an order of the Master of the High Court for the issuing of a European Enforcement Order certificate pursuant to Article 10(4) of Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

(5B) Subsection (5) does not apply in relation to an order of the Master of the High Court—

- (a) for the rejection of an application for a European order for payment pursuant to Article 11(1) of the Order for Payment Regulation,
- (b) for the issue of a European order for payment pursuant to Article 12(1) of the Order for Payment Regulation, and
- (c) declaring the European order for payment enforceable pursuant to Article 18(1) of the Order for Payment Regulation.

(5C) In subsection (5B) “Order for Payment Regulation” means Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.”.

Application under Article 20

5. An application referred to in Article 20 shall be made to the Master of the High Court.

Applications under Articles 22 and 23

6. The High Court shall have sole jurisdiction in relation to any application referred to in Articles 22 or 23.

Enforcement of a European order for payment

7. Where a European order for payment has become enforceable in a Member State of origin that order shall be of the same force and effect as a judgement of the High Court and may be enforced by the High Court, and proceedings taken on it, as if it were a judgment of that Court.

Application for European order for payment not to prejudice position of claimant

8. (1) Where a claimant has pursued his or her claim through the European order for payment procedure, no rule of law or statutory provision shall prejudice his or her position in subsequent civil proceedings.

(2) Without prejudice to paragraph (1), in reckoning any period of time for the purposes of any limitation period specified by the Statute of Limitations

1957 or the Statute of Limitations (Amendment) Act 1991, the period beginning on the day of the receipt by the High Court of an application for a European order for payment and ending on the day which is 30 days after—

- (a) in a case where the claimant has requested that the European order for payment proceedings be terminated in the event of a statement of opposition being lodged, the day on which a notice is issued by the High Court informing the claimant that the European order for payment proceedings have been terminated,
- (b) in a case where the claimant has accepted the proposal of the High Court that the application for a European order for payment should proceed only as respects that part of the claim specified by the High Court, as respects the remaining part of the claim, the day on which the claimant accepts the proposal of the Court,
- (c) in the case of a claim which is rejected by the Court pursuant to Article 11(1) the day on which a notice is issued by the High Court informing the claimant that the application for a European order for payment has been rejected,

shall be disregarded.

(3) Where a statement of opposition to a European order for payment is lodged with the Central Office of the High Court in accordance with Regulation 3(3) and the proceedings are remitted for hearing in accordance with Regulation 9, then, for the purposes of the Statute of Limitations 1957 and the Statute of Limitations (Amendment) Act 1991, as respects the subject matter of the claim under the European order for payment procedure, proceedings shall be deemed to have been instituted in the Court to which they have been remitted for hearing on the day on which the application for a European order for payment was made to the High Court.

(4) Where a statement of opposition to a European order for payment has not been lodged with the Central Office of the High Court in accordance with Regulation 3(3) and the European order for payment has been declared enforceable pursuant to Article 18(1), then, for the purposes of the Statute of Limitations 1957 and the Statute of Limitations (Amendment) Act 1991, as respects the subject matter of the claim under the European order for payment procedure, proceedings shall be deemed to have been instituted in the High Court on the day on which the application for a European order for payment was made to that Court.

Claims to be remitted for hearing where statement of opposition lodged

9. Where a statement of opposition is lodged in accordance with Article 16 and the claimant has not explicitly requested that the proceedings be terminated in that event:

- (a) the Master of the High Court shall—
 - (i) where the claim to which the European order for payment relates 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) or (ii) apply 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 civil summons,
- and the defendant shall be treated, in the case of the High Court and the Circuit Court as having entered an appearance and a defence, and in the case of the District Court as having entered a notice of intention to defend, 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.

Consequences of acceptance of proposal for a modified application under Article 10

10. Where a claimant has accepted a proposal under Article 10 for a European order for payment for a specified amount which relates to part only of the initial claim, the claimant shall not, by virtue solely of such acceptance, be precluded from bringing proceedings in relation to the remaining part of the claim otherwise than by way of an application for a European order for payment, to the extent that such other part is otherwise enforceable.



GIVEN under my Official Seal,
9 December 2008

DERMOT AHERN,
Minister for Justice, Equality and Law Reform.

EXPLANATORY NOTE

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

This Regulation sets out the effect on domestic legislation of Regulation (EC) No. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, and makes the necessary provisions for the good administration of the Regulation.

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