



STATUTORY INSTRUMENTS.

S.I. No. 285 of 2012



DISTRICT COURT (SERVICE) RULES 2012

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The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, section 7 of the Courts Act 1964 and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 21st day of November 2011.

Mary C Devins

Brian Sheridan

David Riordan

Fiona Twomey

Shalom Binchy

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 18th day of July 2012.

ALAN SHATTER,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 31st July, 2012.*

S.I. No. 285 of 2012

DISTRICT COURT (SERVICE) RULES 2012

1. (1) These Rules, which may be cited as the District Court (Service) Rules 2012, shall come into operation on the 15th day of August 2012.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2012.

2. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended by the substitution for Order 10 of the Order set out in Schedule 1.

3. The Forms numbered 10.1, 10.2, 10.3, 27.7 and 53.2 in Schedule 2 shall be substituted for the Forms numbered 10.1, 10.2, 10.3, 10.4 and 27.7 in Schedule B and the Form numbered 53.2 in Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997).

Schedule 1

“Order 10

SERVICE OF DOCUMENTS

1. In this Order, a “document” means a “District Court document” within the meaning of section 7(1) of the Courts Act 1964.

Persons authorised to serve documents

2. (1) In civil proceedings, a document may be served by a summons-server standing assigned to the court area concerned, or by any person authorised to do so by the party or person on whose behalf the document is served, unless these Rules or statute otherwise provide or unless the Court otherwise directs.

(2) The fee to be paid to a summons-server for the service of any such document shall be such sum as determined by the County Registrar from time to time, payable on proof of each separate service effected. Where the fee to be paid for the service of any such document is for the time being prescribed by rule of court or otherwise, such fee shall be payable on proof of each separate service effected.

3. (1) In proceedings by way of summons in which the prosecutor is the Director of Public Prosecutions or an officer or member of the Garda Síochána, a Minister of the Government or a Minister of State or an officer of either such Minister, or an officer of the Revenue Commissioners, a document shall be served by a member of the Garda Síochána, or by any other person or any other means authorised by statute or these Rules or otherwise as directed by the Court.

(2) A member of the Garda Síochána shall not serve a document in any proceedings in which such member is the person instituting the proceedings.

Mode of service — summary jurisdiction: section 22, Courts Act 1991

4. In a case of summary jurisdiction to which section 22(1) of the Courts Act 1991 relates, a summons may, subject to the provisions of that section, be served upon the person to whom it is directed—

- (a) by sending, by registered prepaid post, a copy thereof in an envelope addressed to that person at his or her last known residence or most usual place of abode or at his or her place of business in the State, or
- (b) by delivery by hand, by a person (other than the person on whose behalf it purports to be issued) authorised by these Rules in that behalf, of a copy thereof in such an envelope as aforesaid.

5. Where the Court has proceeded to hear a complaint or accusation to which a summons referred to in rule 4 relates and such person claims not to have had notice of the summons or the hearing to which it relates, application pursuant to section 22(6) of the said Act to have the proceedings set aside may be made in accordance with that section and rule 24.

Mode of service — registered post

6. A document in proceedings to which section 7(1) of the Courts Act 1964 relates may, subject to and in accordance with the provisions of, the said section 7, be served by sending a copy of the document by registered prepaid post in an envelope addressed to the person to be served at his or her last known residence or place of business in the State and the document may be posted by the person on whose behalf it purports to be issued or a person authorised by him in that behalf.

Mode of service — personal service

7. Personal service of a document in accordance with the provisions of section 7 of the Courts Act 1964 shall be effected upon a person in the State by delivering to that person a copy thereof or by leaving the copy for that person at his or her last or most usual place of abode, or at his or her office, shop, factory, home or place of business with that person's husband or wife, as the case may be or with a child or other relative (apparently residing with that person) of that person or of his wife or her husband as the case may be, or with any agent or employee of that person, or with the person in charge of the house or premises wherein that person usually resides, provided that the person (other than the person upon whom service is to be effected) with whom the copy is left is not under the age of sixteen years and is not the person instituting the proceedings.

Service on particular parties

8. (1) A document may be served upon a company by leaving a copy thereof at or sending a copy thereof by post to the registered office of the

company or, if the company has not given notice to the Registrar of Companies of the situation of its registered office, by registering it at the office of the Registrar of Companies.

(2) For the purposes of this rule, any document left at or sent by post to the place for the time being recorded by the Registrar of Companies as the situation of the registered office of a company shall be deemed to have been left at or sent by post to the registered office of the company notwithstanding that the situation of its registered office may have been changed.

9. A document may be served upon a local authority, statutory board or body, or an unincorporated society or club by leaving a copy thereof with any employee of such authority, board, body, society or club at the principal office thereof or by sending such copy by prepaid registered post to such principal office.

10. Where persons are sued as partners in the name of their firm, a copy of the document shall be served either upon any one or more of the partners or at the principal place within the jurisdiction at which the business of the partnership is carried on, upon any person having at the time of service the control or management of the partnership business there; and such service shall be deemed good service on the firm so sued, whether any of the members thereof are out of the jurisdiction or not, and no leave to issue a document against them shall be necessary; provided that in the case of a partnership which has been dissolved to the knowledge of the applicant before the commencement of the action, the document shall be served upon every person within the jurisdiction sought to be made liable.

11. Where the person upon whom service is to be effected is a minor, service upon the father, mother, other guardian or, if there is none, then upon the person with whom the minor resides or under whose care he or she is, or upon his or her solicitor shall unless the Court otherwise decides, be deemed good service upon such minor.

12. Where the person upon whom service is to be effected is a ward of court or person of unsound mind not so found by inquisition, service upon his or her solicitor or upon the committee of the ward of court or upon the guardian ad litem or the person with whom the person of unsound mind resides or under whose care he or she is, shall, unless the Court otherwise decides, be deemed good service upon such ward of court or person of unsound mind.

13. Where the person upon whom service is to be effected is a prisoner or a person detained in a place of detention under the order of any court or tribunal, service upon the governor, director or other person in charge of the prison or place of detention shall, unless the Court otherwise decides, be deemed good service upon such prisoner or person so detained.

Acceptance of service

14. (1) Service of a document shall be deemed good service if the Judge is satisfied that a solicitor acting on behalf of the person to be served has accepted service thereof.

(2) Service on the solicitor for a party may be effected by delivering a copy of the document to the solicitor or by leaving such copy at his or her office, or by sending such copy by post in an envelope to, such solicitor, or by sending such copy to a document exchange service designated by that solicitor in accordance with sub-rule (3) through which that solicitor accepts documents.

(3) Delivery or service through a document exchange service under sub-rule (2) shall:

(a) be effective provided the solicitor concerned has confirmed in writing to the party serving the document or copy (or that party's solicitor) that he will accept service of documents in the action through the document exchange service designated by him;

(b) cease to be effective where, prior to such delivery or service, the solicitor concerned has in writing revoked such confirmation.

(4) Any statutory declaration verifying delivery or service through a document exchange service shall exhibit the written confirmation referred to in sub-rule (3) and contain a statement that such confirmation had not, at the time of such delivery or service, been revoked in accordance with this rule.

Substituted service

15. (1) Wherever the Court is satisfied upon ex parte application made in that behalf, that, for good cause shown, service of a document cannot be effected in a manner or in any manner prescribed by these Rules, it may make an order for substituted or other service or for the substitution for service of notice by advertisement or otherwise. Particulars of such order shall be endorsed on the original and each copy of the document to be served.

(2) Where the Court is satisfied that any particular mode of service prescribed is at any time not then available, it may by order in writing direct that the service of documents or of any particular class of documents be effected in such other manner as it thinks proper. Such direction shall be retained by the Clerk and shall remain in force until the said mode of service is again available or until the direction is revoked by the Court.

Service deemed good

16. The Court may, if it sees fit so to do, deem the service of any document actually effected in any proceedings, even though not effected in a manner prescribed by these Rules, to be good and effected service.

Proof of service

17. (1) A person who serves a document shall either prove the service by evidence given orally before the Court or by statutory declaration as to service, in the Form 10.1, 10.2 or 10.3, Schedule B, as the case may be, made before a Judge of the District Court, Commissioner for Oaths, Practising Solicitor, Peace Commissioner or Notary Public.

(2) When service of a document upon a person has been effected by registered prepaid post, a statutory declaration of such service, which shall be in the Form 10.1, Schedule B shall be made not earlier than ten days after the day on which the envelope containing the copy of the document for service was posted. Such declaration shall be made by the person who posted the envelope, shall exhibit the certificate of posting, shall state, where appropriate, that the original document was duly stamped at the time of posting, and that the envelope has not been returned undelivered to the sender.

18. Where a statutory declaration is made, and lodged under rule 22, it shall be prima facie evidence of the mode, time and place of service as therein set out and it shall not be necessary for the person effecting service to attend in person at the Court to depose to such service, but the Court may, if it thinks fit, require the person who effected service to attend before it and give evidence touching such service notwithstanding the making of such statutory declaration.

Deemed time of service

19. Where service of a document is effected by registered prepaid post or by ordinary prepaid post the document shall be deemed to be served upon the person to whom it was directed at the time at which the envelope containing the copy for service would be delivered in the ordinary course of post. The document shall, unless otherwise provided, be deemed to be issued at the time at which the envelope was posted.

Service invalid unless document stamped, where required

20. Where a document is required by law to be stamped, service thereof shall have no effect or validity unless, at the time of such service, the original document was so stamped.

Time for service and lodgment of documents

21. Save where otherwise provided by statute or by these Rules, a document which is required to be served shall be served at least seven days or, in the case of service by registered prepaid post, at least 21 days, before the date fixed for the hearing.

22. A document intended for entry for hearing shall, together with a statutory declaration as to service thereof, be lodged with the Clerk at least four days before the date fixed for the hearing.

23. No document shall be received or entered by the Clerk after the time specified by these Rules without the order of the Judge, and any late entry shall be made in accordance with such direction as the Judge may give.

Application to have proceedings set aside

24. (1) In this rule—

“the Act of 1851” means the Petty Sessions (Ireland) Act 1851;

“the Act of 1986” means the Courts (No. 3) Act 1986 (No. 33 of 1986);

“the Act of 1991” means the Courts Act 1991 (No. 20 of 1991).

(2) Where a summons has been issued under section 11(2) of the Act of 1851 or section 1 of the Act of 1986 and the Court has proceeded to hear the complaint or accusation to which the summons relates and the person to whom the summons is directed intends to apply pursuant to section 22(6)(a) of the Act of 1991 to have the proceedings set aside on the ground that he or she did not receive notice of the summons or of the hearing to which the summons relates, such application may be made at any sitting of the Court for the transaction of summary business for the court area wherein the hearing to which the summons relates has taken place. Where the application is not made within 21 days after the said summons or hearing comes to the notice of the applicant, a further period within which to make the application may be sought *ex parte* at any sitting of the Court for the said court area.

(3) Notice of such application to have proceedings set aside shall be in the Form 10.5, Schedule B, and when completed, shall forthwith be lodged with the Clerk for the said court area.

(4) Upon receipt of the notice the Clerk shall enter and, having regard to the provisions of section 22(6)(b) of the said Act of 1991, shall list the matter for hearing and give, or send by ordinary post, to the applicant and the opposing party named in the proceedings a notice in the Form 10.6, Schedule B.

(5) The order of the Court on hearing the application shall be in the Form 10.7, Schedule B.

Service under Civil Liability and Courts Act 2004

25. The delivery or service of any notice for the purposes of section 8 or section 17 of the Civil Liability and Courts Act 2004 shall be in the manner prescribed in section 4 of that Act.”

Schedule 2

No. 10.1

SCHEDULE B
O.10, r.16

STATUTORY DECLARATION AS TO SERVICE BY REGISTERED
PREPAID POST PURSUANT TO

*(SECTION 7 OF THE COURTS ACT 1964)

*(SECTION 22 OF THE COURTS ACT 1991)

I,..... of.....
aged sixteen years and upwards, do solemnly and sincerely declare that:

I served this original document by posting a copy thereof atPost
Office atam/pm on theday of20..... in a registered prepaid
envelope addressed to the *accused/defendant/respondent/therein named at the
address therein stated, and that the address to which such envelope was sent is
the last known residence or most usual place of abode/place of business of the
person to whom the document is directed,

The certificate of posting of the said envelope is attached hereto,

I am (the *prosecutor/complainant/applicant/in the proceedings) *(authorised
by the person bringing/appealing the proceedings to post the said envelope),

At the time of posting the said envelope the original document was duly issued *
and stamped,

The said envelope has not to this date been returned undelivered to the sender,

AND I make this solemn declaration conscientiously believing the same to be
true and by virtue of the Statutory Declarations Act 1938.

Signed.....

Declared before me [name in capitals] a
*(Judge of the District Court) *(commissioner for oaths/practising solicitor)
*(peace commissioner) *(notary public) by the said

*[who is personally known to me],

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration
by the production to me of

†passport no. issued on theday of..... by the auth-
orities of, which is an authority recognised by the Irish Government,

†national identity card no. issued on theday of.....by the authorities ofwhich is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. issued on theday of..... by the authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on theday of..... by the Minister for Justice and Equality,

†travel document (other than refugee travel document) issued on theday of.....by the Minister for Justice and Equality,]

at.....this....day of.....20.....

Signed.....

*Judge of the District Court/*Commissioner for Oaths/*Practising Solicitor/
*Peace Commissioner/*Notary Public.

NOTES

This declaration shall be made not earlier than ten days after the day on which the envelope is posted.

*Delete words or clauses which are not applicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

No. 10.2

SCHEDULE B

O.10, r.16

STATUTORY DECLARATION AS TO SERVICE BY ORDINARY POST

I,..... of.....
aged 16 years and upwards, do solemnly and sincerely declare that:

I served this original document by posting a copy thereof atPost
Office at.....a.m./p.m. on theday of20...., in a prepaid envelope
addressed to the Respondent/Defendant therein named at the address stated
therein

*(in pursuance of an order of the Court dated theday of20....,)

*The certificate of posting of the said envelope is attached hereto.

The said envelope has not to this date been returned undelivered to the sender

AND I make this solemn declaration conscientiously believing the same to be
true and by virtue of the Statutory Declarations Act 1938.

Signed.....

Declared before me.....[name in capitals] a *(Judge of the District
Court) *(commissioner for oaths/practising solicitor) *(peace commissioner)
*(notary public) by the said

*[who is personally known to me],

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration
by the production to me of

†passport no. issued on theday of..... by the auth-
orities of, which is an authority recognised by the Irish Government,

†national identity card no. issued on theday
of.....by the authorities ofwhich is an EU Member State, the
Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. issued on theday of..... by the
authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on theday of..... by
the Minister for Justice and Equality,

†travel document (other than refugee travel document) issued on
theday of.....by the Minister for Justice and Equality,]

at.....this.....day of.....20.....

Signed.....

*Judge of the District Court/*Commissioner for Oaths/*Practising Solicitor/
*Peace Commissioner/*Notary Public

*Delete words or clauses which are not applicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

No. 10.3

SCHEDULE B

O.10, r.16

STATUTORY DECLARATION AS TO PERSONAL SERVICE

I,..... of.....
aged 16 years and upwards, do solemnly and sincerely declare that:

I duly served this original document on the.....day of.....20.....,
by handing a copy thereof to*.....

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed.....

Declared before me.....[name in capitals] a †(Judge of the District Court) †(commissioner for oaths/practising solicitor) †(peace commissioner) †(notary public) by the said

†[who is personally known to me],

†[who is identified to me by who is personally known to me]

†[whose identity has been established to me before the taking of this Declaration by the production to me of

††passport no. issued on theday of..... by the authorities of, which is an authority recognised by the Irish Government,

††national identity card no. issued on theday of.....by the authorities ofwhich is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

††Aliens Passport no. issued on theday of..... by the authorities of which is an authority recognised by the Irish Government,

††refugee travel document no. issued on theday of..... by the Minister for Justice and Equality,

††travel document (other than refugee travel document) issued on theday of.....by the Minister for Justice and Equality,]

at.....this.....day of.....20.....

Signed.....

†Judge of the District Court/†Commissioner for Oaths/†Practising Solicitor/
†Peace Commissioner /†Notary Public

*Give full particulars of service

†Delete words or clauses which are not applicable.

††Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

No. 27.7

SCHEDULE B

O.27. r. 6(2)

NOTICE OF APPLICATION FOR WARRANT OF EXECUTION
(to enforce by committal an Order to Estreat)

District Court Area

District No.

.....Applicant

.....Respondent (*Defendant/*Surety)

Case No:.....

Fine No:.....

Charge Sheet/Summons:.....

WHEREAS at the sitting of the District Court at.....on
the.....day of20....., the Court made an order
estreating a recognisance in the sum of € against the respondent herein, a
party to the said recognisance,

AND in default of the said order of the Court made on the.....day of
.....20....., ORDERED that the last-mentioned sum be levied
by distress and sale of the goods of the respondent

AND WHEREAS the respondent has not complied with that order

AND WHEREAS a warrant of distress was issued on the day of
.....20.....

TAKE NOTICE that the applicant herein will apply at the sitting of the District
Court to be held at on the
day of20..... at.....am./pm for the issue of a warrant to commit
the respondent herein to prison on the ground that it has been found impossible
to execute that warrant of distress for the following reason(s):-
.....

Dated this.....day of20....

Signed.....

Superintendent of the Garda Síochána

To

Of

The above named respondent,

And to the District Court Clerk

at.....

A statutory declaration as to service in the appropriate form should be lodged.

No. 53.2

O.53, r.3(1)
SCHEDULE C

ENFORCEMENT OF COURT ORDERS ACT 1926, Section 15(2)

STATUTORY DECLARATION TO ACCOMPANY APPLICATION FOR
SUMMONS

District Court Area of

District No.

.....Creditor

of.....

and.....Debtor

of.....

I,..... of.....
do solemnly and sincerely declare

1. *(that I am the creditor in the above-named proceedings); *(that I have been authorised by the creditor in the above-named proceedings to make this statutory declaration on his/her behalf);

2. that the judgment debt sought to be enforced in the accompanying application is a debt due under a judgment, order or decree of a court of competent jurisdiction, namely, a judgment/order/decree of the.....Court dated the.....day of20.....,

3. that the debtor in these proceedings is ordinarily resident at..... in the said district;

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed.....

Declared before me.....[name in capitals] a *(Judge of the District Court) *(commissioner for oaths/practising solicitor) *(peace commissioner) *(notary public) by the said

*[who is personally known to me],

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. issued on theday of
by the authorities of, which is an authority recognised by the Irish
Government,

†national identity card no. issued on theday
of.....by the authorities ofwhich is an EU Member State, the
Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. issued on theday of..... by the
authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on theday of..... by
the Minister for Justice and Equality,

†travel document (other than refugee travel document) issued on
theday of.....by the Minister for Justice and Equality,]

at.....this.....day of.....20.....

Signed.....

*Judge of the District Court/*Commissioner for Oaths/*Practising Solicitor/*
Peace Commissioner/*Notary Public

*Delete words or clauses which are not applicable.

†Where relevant, provide details of the document by which identity has been
established, and delete the remaining alternatives.

EXPLANATORY NOTE

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

These rules amend the District Court Rules by the substitution of Order 10 and associated forms to prescribe procedure for service of documents including personal service and service by document exchange, subject to certain conditions, of a document on a solicitor.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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