



STATUTORY INSTRUMENTS.

**S.I. No. 315 of 2018**



DISTRICT COURT (EUROPEAN SMALL CLAIMS PROCEDURE)  
RULES 2018

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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 24 of the Interpretation Act 2005, and the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972) and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the following rules of court.

Dated this 18th day of June 2018.

Rosemary Horgan Chairperson

Mary C Devins  
Anne Watkin  
Shane McCarthy  
Noel A Doherty  
Michelle Johnston

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

Dated this 2nd day of August 2018.

CHARLES FLANAGAN,  
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in  
"Iris Oifigiúil" of 10th August, 2018.*

S.I. No. 315 of 2018

DISTRICT COURT (EUROPEAN SMALL CLAIMS PROCEDURE)  
RULES 2018

1. (1) These Rules, which may be cited as the District Court (European Small Claims Procedure) Rules 2018, shall come into operation on 2nd day of September 2018.

(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 2018.

2. (1) The Order set out in the Schedule shall be substituted for Order 53B of the District Court Rules 1997.

3. (1) Form 53B.01 shall be deleted from Schedule C to the District Court Rules 1997.

## SCHEDULE 1

### “Order 53B

#### **European small claims procedure (for cross-border small claims within the European Union)**

##### **1 Definitions**

1. In this Order—

the “2008 Regulations” means the European Communities (Small Claims Procedure) Regulations 2008 (S.I. 533 of 2008) as amended by the European Communities (European Small Claims Procedure and European Order for Payment) (Amendment) Regulations 2017 (S.I. 312 of 2017);

“claim form” means the initiating document completed by a claimant in a European Small Claims Case in the Form A in the Annex to the EU Regulation;

the “EU Regulation” means Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 (OJ L 199 of 31 July 2007, page 1) establishing a European Small Claims Procedure, as amended by Regulation (EC) No. 2015/2421 of the European Parliament and of the Council of 16 December 2015, OJ L 341 of 24 December 2015;

“European Small Claim” means a claim referred to in Article 2(1) of the EU Regulation and which is not excluded from the application of the EU Regulation by Article 2(2) of the EU Regulation;

“European Small Claims Procedure” means the method provided in the EU Regulation and in this Order for commencing and dealing with a European Small Claim;

“Member State” means a Member State of the European Union other than Denmark;

“Small Claims Registrar” or “Registrar” has the same meaning as in Order 53A and, for the avoidance of doubt, includes a District Court Clerk assigned to the District Court area in which a European Small Claim is lodged or to which a European Small Claim is remitted or transferred who for the time being is performing functions of the Court specified in the 2008 Regulations which may be exercised by a District Court Clerk,

references in this Order to any form prescribed by or in any Annex to the EU Regulation include reference to such forms as amended or substituted, and to any other forms for the time being prescribed for use in connection with the EU Regulation.

## **2 Venue**

2. (1) Subject to the provisions of this Order, all proceedings to which this Order applies must be brought and determined in accordance with the provisions of Order 40, rule 4 and, where applicable, Order 41B, rules 2 and 3.

(2) Where proceedings for a European Order for Payment are remitted to the European Small Claims Procedure by the Master of the High Court, the proceedings will be continued and determined in accordance with this Order, and:

(i) the application for a European Order for Payment will stand as the claim form, and

(ii) the statement of opposition to a European order for payment will stand as the defendant's answer.

## **3 Electronic filing**

3. (1) Notwithstanding any other provision of these Rules, where suitable facilities for that purpose have been established by the Courts Service, and the Court or Registrar has so directed, the service of any document required to be sent, delivered, dispatched or served under the European Small Claims Procedure is valid if transmitted in electronic form as an electronic message to the claimant's or respondent's electronic mail address (as identified on any letterhead or stationery of the claimant or respondent, or as used by either to send any communication to the Registrar) or to the Registrar's electronic mail address (as identified on any website operated by the Courts Service) provided that where the sender is not satisfied that the electronic communication was delivered to the intended recipient (by reason of any delivery status message received) or where no response has been received within a period of seven days following such transmission, then the electronic communication must be treated as if it had never been sent and the relevant document must be served as otherwise provided for in this Order within eight days following such period.

(2) No document sent pursuant to the provisions of this rule is invalid or ineffective by reason only of the fact that it does not include a manuscript signature.

(3) Where a provision of this Order requires that a document be "accompanied by" any fee or payment, such fee or payment must be deemed to have been validly effected or made provided that it is paid or sent to the Registrar as soon as may be following the transmission in accordance with this rule of the document in question and the mode of payment includes or is accompanied by any reference or claim number given in respect of the European Small Claim to which it relates.

(4) No document sent pursuant to the provisions of this rule is invalid or ineffective by reason only of the fact that any fee associated with the lodgment or delivery of such document is recorded or receipted otherwise than by impression of a stamp on the original document.

#### **4 Application to institute European small claim proceedings**

4. (1) A person intending to commence a European Small Claim in the Court (hereinafter called the “claimant”) may, instead of either:

(a) issuing an claim notice, or

(b) making application to the appropriate Small Claims Registrar to have the claim processed through the Small Claims Procedure in accordance with Order 53A (where that procedure is available in respect of the claim)

commence the European Small Claims Procedure by filing a completed claim form accompanied, where appropriate, by any relevant supporting documents, with the Appropriate Registrar for the District Court, accompanied by the appropriate fee.

(2) The claim form and supporting documents may be filed by registered post or, where rule 3 applies, in electronic form.

(3) The claimant may contact the court office if practical assistance is needed in completing the claim form or general information is needed in respect of any subsequent step required; the respondent may likewise contact the court office if practical assistance is needed in completing any form or general information is needed in respect of any subsequent step required.

(4) Nothing in this Order precludes a claimant from applying to the appropriate Small Claims Registrar to have his claim processed through the Small Claims Procedure in accordance with Order 53A (instead of the European Small Claims Procedure), where that procedure is available in respect of the claim.

#### **5 Recording of application**

5. The Registrar must, in respect of:

(i) every claim form received, and

(ii) every proceeding for a European Order for Payment remitted to the European Small Claims Procedure,

record in writing (which may be in electronic form) the name and address of the claimant, the name and address of the respondent named in the claim form, the date of the claim form, nature of the claim and any other relevant details.

#### **6 Rejection or acceptance of application**

6. (1) Where the claim does not come within the scope of the European Small Claims Procedure, the Registrar must so inform the claimant, where possible by the same means by which the claimant’s application was sent to the Registrar (and if not possible, by registered or recorded delivery post) and must advise the claimant that he or she may:

(a) withdraw the claim, or

(b) commence proceedings on the claim as ordinary civil proceedings before the Court in accordance with the provisions of Order 40, rule 4 or, where applicable, Order 41B, rule 2 or 3.

(2) Where the claimant withdraws the claim, the Registrar must refund any fee received in respect of the claim.

(3) Where the Registrar considers the information provided by the claimant to be inadequate or insufficiently clear, or that the claim form is not filled in properly, he or she must send to the claimant (by the means by which the claim form was sent to him) a request in the Form B in the Annex to the EU Regulation to be completed by the claimant and returned to the Registrar by the same means within the period specified by the Registrar, which must be 21 days of the sending by the Registrar of Form B, or such longer period as the Registrar may specify.

(4) Where the Registrar considers that:

(i) the completed claim is clearly unfounded, or

(ii) the application is inadmissible, or

(iii) the information provided by the claimant was inadequate or insufficiently clear or the claim form was not filled in properly, and the claimant was given the opportunity to complete or rectify the claim form or to supply supplementary information or documents or to withdraw the claim, within a period specified by the Registrar, and the claimant fails to complete or rectify the claim form within the time specified,

he or she may refer the claim to the Judge assigned to the court district concerned, who may dismiss the claim or make such other order as he or she deems necessary in the circumstances.

(5) In such circumstances the Registrar must, on behalf of the Court, notify the claimant of the Court's order and that no appeal lies against the making of such order and must refund any fee, where appropriate.

(6) Where the Registrar considers the properly filled in claim comes within the scope of the European Small Claims Procedure, he or she must, within the time limit prescribed by Article 5.2 of the EU Regulation:

(a) complete Part I of the standard answer form, in the Form C in the Annex to the EU Regulation, and

(b) serve by registered post (or, where relevant, as otherwise permitted by rule 3) on the respondent copies of the claim form, of the supporting documents (where applicable) and the answer form.

### **7 European small claim admitted by respondent**

7. (1) If the respondent accepts the claim in full, he or she must forward to the Registrar, together with the duly completed answer form or answer in other written form, payment by bank transfer, or by cheque, postal order(s) or money order(s) made payable to the claimant, or payment by other permitted means, for the full amount claimed.

(2) On receipt of such payment the Registrar must transmit same to the claimant. If the respondent's acceptance of the claim is conditional, (e.g. on goods being returned by the claimant), the Registrar must so inform the claimant and seek his agreement to comply with any condition specified by the respondent.

### **8 Respondent's response if claim not admitted**

8. (1) Any counterclaim by the respondent must be accompanied by the appropriate fee.

(2) The Registrar must dispatch copies of the respondent's response, including the completed Part II of the standard answer form or answer in other written form and the supporting documents provided (where applicable) to the claimant by registered post (or, where relevant, as otherwise permitted by rule 3) within the time limit prescribed by Article 5(4) of the EU Regulation.

(3) The Registrar must dispatch copies of any counterclaim and any supporting documents provided (where applicable) to the claimant by registered post (or, where relevant, as otherwise permitted by rule 3) within the time limit prescribed by Article 5(6) of the EU Regulation.

(4) Where, in his or her standard answer form or answer in other written form, the respondent claims that the value of a non-monetary claim exceeds the limit of €5,000 set out in Article 2(1) of the EU Regulation, the Registrar must refer the proceeding to the District Court, which may make such order as it deems necessary in the circumstances.

(5) Where a counterclaim exceeds the limit set out in Article 2(1) of the EU Regulation the claim and counterclaim must not proceed in the European Small Claims Procedure and the Registrar must so inform the claimant and the respondent, where possible by electronic mail (and if not possible, by registered or recorded delivery post).

(6) The Registrar must advise the claimant and the respondent that he or she may commence proceedings on the claim (or counterclaim) as ordinary civil proceedings before the court in accordance with the provisions of Order 40 or, where applicable, Order 41B, rule 2 or 3.

(7) The Registrar must notify the claimant of any order made by the Court under this rule.

(8) The provisions of this Order apply to any counterclaim made under the European Small Claims Procedure as they apply to any European Small Claim, with any necessary modifications.

## **9 Settlement**

9. (1) Whenever he or she considers it appropriate, the Registrar must, in accordance with Article 12(3) of the EU Regulation, seek to reach a settlement between the parties. In that connection he or she may interview (in person or by such other means as he or she considers appropriate) the parties and any other person whom either party may wish him or her to hear. Where a settlement is reached, particulars of the settlement must be recorded in writing.

(2) Without prejudice to the generality of Article 14 of the EU Regulation, the Registrar may extend the time limits provided for in the EU Regulation where he or she is seeking to reach a settlement between the parties.

(3) Where the terms of a settlement are not complied with, the Registrar may, if requested so to do by the claimant, proceed to judgment against the other party in accordance with the provisions of rule 14.

## **10 Default**

10. (1) Where the respondent fails to return the answer form or deliver an answer in other written form to the Registrar within the 30 day period permitted by Article 5(3) of the EU Regulation, or where the claimant fails to respond to any counterclaim to the Registrar within the 30 day period permitted by Article 5(6) of the EU Regulation, judgment must be entered in default of answer in accordance with sub-rule (2).

(2) Where judgment in default is sought under sub-rule (1) in a claim or counterclaim for a liquidated amount, the claimant or respondent (as the case may be) may swear an affidavit of debt and file the affidavit with the Registrar, and the Registrar must proceed to judgment in accordance with the provisions of Order 47 as if the claim form or counterclaim (as the case may be) were a claim notice issued and served.

(3) The forms of affidavit and judgment provided in Order 47 may, with necessary modifications, be used for that purpose.

(4) The claimant may call to or contact the Court office if assistance is needed in completing the forms.

(5) In a case to which sub-rule (2) applies, where requested by the claimant or (as the case may be) the respondent, the Registrar must issue to the claimant or (as the case may be) the respondent a certificate in the amount in which judgment was given in accordance with rule 14.

(6) Where a claim to which no answer form or answer in other written form is returned within the time permitted or a counterclaim to which no response is provided within the time permitted is for an unliquidated amount, the Registrar must refer the proceedings to the Court in accordance with rule 11.

## **11 Referral to Court**

11. (1) Within the time prescribed by Article 7(1) of the EU Regulation, or such extended time as the Registrar has permitted, where the Registrar is satisfied that a settlement of the proceedings cannot be reached, the Registrar must refer the proceedings to the Court and must notify the parties of the place, date and time at which the proceedings are listed before the Court.

(2) The Registrar must make himself or herself available to assist the Court in considering the proceedings.

(3) When the proceedings are before the Court, the Court may:

(a) direct in accordance with Article 7(1)(a) of the EU Regulation that further details concerning the claim be demanded from the parties within a period of time specified by the Court, and on the giving of same or the expiry of the time permitted for the giving of same, the proceedings be re-entered before the Court;

(b) direct in accordance with Article 7(1)(b) of the EU Regulation that evidence be taken and give directions for the taking of evidence in accordance with Article 9 of the EU Regulation as are appropriate;

(c) where it considers that the conditions set out in Article 5(1a) of the EU Regulation for the holding of an oral hearing are satisfied, direct in accordance with Article 7(1)(c) of the EU Regulation that the parties be summoned to an oral hearing and give such directions for the conduct of the oral hearing in accordance with Article 8 of the EU Regulation or otherwise as are appropriate;

(d) subject to sub-rule (4), where it does not require further information, evidence or an oral hearing, proceed to give judgment on the claim and any counterclaim.

(4) Where the Court refuses a request by a party for an oral hearing, the reasons for refusal must be given in writing in accordance with Article 5(1a) of the EU Regulation.

(5) The Registrar must, on behalf of the Court, notify the parties, or relevant party, in writing, of:

(a) any further details concerning the claim demanded and the time within which they are to be provided;

(b) the place, date and time at which (and where relevant, any communications technology by means of which) evidence is to be taken or any oral hearing is to be conducted;

(c) any judgment given on any claim and/or counterclaim.

(6) The Registrar must make himself or herself available to assist the Court at the taking of any evidence or any oral hearing, if requested by the Court so to do.

## **12 Translations**

12. (1) If a document (other than a document referred to in Article 6(1) of the EU Regulation) is submitted to the Court in a language other than Irish or English, the Registrar may, where a translation of that document appears to be necessary for giving a judgment on the claim or counterclaim, require the party which provided the document to provide a translation of that document in accordance with Article 6 of the EU Regulation within such time as the Registrar specifies, which must ordinarily not exceed 21 days.

(2) Where a party to a European Small Claim refuses to accept a document because it is not in:

(a) the official language of the Member State addressed, or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected or to where the document is to be dispatched, or

(b) a language which the addressee understands,

the Registrar must so inform the other party and request that other party to provide a translation of the document concerned within such time as the Registrar specifies, which must ordinarily not exceed 21 days.

(3) Where, on request, a party has failed to comply with the translation requirements set out in Article 6(2), Article 6(3)(a) or Article 6(3)(b) of the EU Regulation, as may be appropriate, the Registrar must proceed as if the document concerned were never received by the Court, or by the other party, as the case may be.

## **13 Costs**

13. The Court may make such order for costs in proceedings on any European Small Claim as it considers appropriate, consistently with the requirements of Article 16 of the EU Regulation.

## **14 Issue of documents by Court following judgment**

14. (1) Where a judgment is given in a case to which this Order relates, the Court must (a) issue the appropriate form of judgment or order; (b) notify the party against whom it was issued and/or (c) where requested by the claimant or (as the case may be) the respondent, send to the claimant or respondent a certificate (in the Form D in the Annex to the EU Regulation) for the amount of any judgment given on the claim or counterclaim, at no extra cost.

(2) The Registrar must record in writing (which may be in electronic form) particulars of the request for, issue of and notification of any judgment or order and the issue of any such certificate.

(3) Such documents must be issued by electronic mail where possible, or otherwise by registered or recorded delivery post.

### **15 Application for review of the judgment in accordance with Article 18**

15. (1) A respondent against whom judgment by default has been given in a European Small Claim in accordance with the provisions of this Order may apply by notice of motion (in Form 44.01, Schedule C with the necessary modifications) to the Court in the Court area in which the order was obtained for an order to set aside and/or vary the said order on either of the grounds specified in Article 18(1) of the EU Regulation.

(2) The notice of motion must be issued within the time limit specified in Article 18(2) of the EU Regulation and must be served on the claimant or solicitor for the claimant, if any, not less than seven days before the date on which the application is listed before the Court.

(3) Service of the notice of motion does not operate as a stay of proceedings.

(4) The Court may declare sufficient the service of the notice of motion actually effected.

(5) The notice of motion must set out clearly and briefly the grounds specified in Article 18(1) of the EU Regulation relied on by the party applying.

(6) The Court may, on the hearing of the motion, grant or refuse the application on the basis of the provisions of Article 18(1) of the EU Regulation.

(7) Where the Court rejects the review on the basis that none of the grounds referred to in Article 18(1) of the EU Regulation applies, the judgment remains in force.

(8) Where the Court decides that the review is justified for one of the reasons laid down in Article 18(1) of the EU Regulation, then the judgment given in the European Small Claims Procedure must be set aside and is null and void.

### **16 Enforcement**

16. (1) Subject to the EU Regulation, the provisions of Orders 51 and 51A, insofar as they may be applied to a judgment of the District Court, may be applied to a judgment or court settlement given in the European Small Claims Procedure in a Member State, and any reference in Orders 51 and 51A to a “judgment” includes, where the context so admits, a reference to such a judgment or court settlement. In such a case, any relevant Form in Schedule C which contains a reference to a judgment, or order may be adapted to refer to such a judgment.

(2) Where an application is made by a creditor for enforcement in accordance with Order 51, rule 3 in respect of a judgment or court settlement given in the European Small Claims Procedure in a Member State other than the State, the judgment creditor must, in addition to lodging with the Clerk the summons in

duplicate and statutory declaration, provide to the Clerk the documents referred to in Article 21(2) of the EU Regulation.

### **17 Application for refusal of enforcement**

17. (1) Where enforcement of a judgment or court settlement given in the European Small Claims Procedure in a Member State other than the State under these Rules is sought in accordance with rule 16, the party against whom enforcement is sought may apply to the Court for an order refusing enforcement on the basis of the provisions of Article 22(1) of the EU Regulation, or for an order staying or limiting enforcement on the basis of the provisions of Article 23 of the EU Regulation.

(2) An application under sub-rule (1) must be by notice of motion in the Form 53B.02 Schedule C. The notice of motion must specify the grounds alleged for the relief sought.

(3) Unless the Court, being satisfied as to the urgency of the application, otherwise permits, a copy of the notice of motion must be served by the respondent:

(a) not later than seven days before the return date of the motion, on the claimant and

(b) on such other persons as the Court directs.

### **18 Notifications by Registrar**

18. Any notification or notice given by the Registrar to a party to a European Small Claim for any purpose set out in the EU Regulation must be given by the means by which that party has communicated to him (or to the address or contact detail provided for that party) and must include particulars and any record number for the European Small Claim concerned.

### **19 Hearings by videolink or telephone**

19. (1) For the purposes of this Order, the contemporaneous linking together by telephone or other means of electronic communication of persons entitled or permitted to be present in the Court at a hearing must be deemed to constitute a hearing before the Court, and all the provisions in these Rules as to hearings apply to such hearing, provided that:

(i) each of the persons taking part in such a hearing is able to hear, and speak to, each of the other persons taking part; and

(ii) at the commencement of such a hearing each such person acknowledges his presence and that he or she accepts that the proceedings will be deemed to be a hearing before the Court.

(2) A person may not cease to take part in a hearing conducted in accordance with this rule by disconnecting his telephone or other means of communication unless he or she has previously obtained the express consent of the Judge or

Registrar and a person must be conclusively presumed to have been present at all times during the hearing unless he or she has previously obtained the express consent of Judge or Registrar to leave the hearing.”

EXPLANATORY NOTE:

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

These rules amend Order 53B to facilitate the operation of the European Small Claims Procedure as amended by Regulation (EU) 2015/2421 and the European (Communities (European Small Claims Procedure and European Order for Payment) (Amendment) Regulations 2017.

BAILE ÁTHA CLIATH  
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