



STATUTORY INSTRUMENTS.

S.I. No. 498 of 2021

RULES OF THE SUPERIOR COURTS (HAGUE MAINTENANCE
CONVENTION) 2021

RULES OF THE SUPERIOR COURTS (HAGUE MAINTENANCE
CONVENTION) 2021

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 23rd day of June 2021

Frank Clarke (Chairperson)

George Birmingham

Mary Irvine

Elizabeth Dunne

John A. Edwards

Brian R. Murray

Richard Humphreys

Conor Dignam

Grainne Larkin

Stuart Gilhooly

Liam Kennedy

James Finn

John Mahon

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

Dated this 3rd day of September 2021.

HEATHER HUMPHREYS

Minister for Justice

S.I. No. 498 of 2021

RULES OF THE SUPERIOR COURTS (HAGUE MAINTENANCE CONVENTION) 2021

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Hague Maintenance Convention) 2021, shall come into operation on 12th day of October 2021.

(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 2021.

2. The Rules of the Superior Courts are amended by the substitution for Order 42A of the Order set out in the Schedule.

Schedule

“Order 42A

Protective Measures and Enforcement of Judgments, Authentic Instruments, Court Settlements and Decisions under the Jurisdiction of Courts and Enforcement of Judgments Act 1998, Council Regulation (EC) No. 1346/2000, Council Regulation (EC) No. 2201/2003, Council Regulation (EC) No. 4/2009, the Hague Maintenance Convention 2007 and Council Regulation (EC) No. 1215/2012

I. Interpretation

1. For the purposes of this Order:-

“2007 Hague Convention” means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance done at the Hague on 23 November 2007 as approved on behalf of the European Union by Council Decision 2011/432/EU of 9 June 2011 and as given further effect in the State by the 2019 Regulations;

“2007 Hague Protocol” means the Hague Protocol of 23 November 2007 on the law applicable to maintenance applications;

“2011 Regulations” means the European Communities (Maintenance) Regulations 2011 (S.I. No. 274 of 2011) as amended by the European Communities (Maintenance) (Amendment) Regulations 2011 (S.I. No. 612 of 2011);

“2019 Regulations” means the European Union (Hague Maintenance Convention) Regulations 2019 (S.I. No. 594 of 2019);

“decision” has the same meaning as in, as the case may be:

- (i) Article 2.1.1 of the Maintenance Regulation, or
- (ii) Regulation 2(1) of the 2019 Regulations;

“insolvency judgment” means a judgment referred to in Article 25 of the Insolvency Regulation;

the “Insolvency Regulation” means Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings (OJ L 160/1 of 30 June 2000);

the “Maintenance Regulation” means Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ L 7/1 of 10 January 2009);

“relevant European Union instrument” means, as the case may be,

- (a) Regulation No. 1215/2012, or
- (b) the Lugano Convention as applied by the 1998 Act, or
- (c) Regulation No. 2201/2003, or
- (d) the Insolvency Regulation, or
- (e) the Maintenance Regulation;

“relevant order” means, as the case may be:

- (a) an order granting leave to enforce a judgment under Chapter III of Regulation No. 2201/2003, or
- (b) an order granting leave to enforce a judgment under sections 7 and 8 of the 1998 Act, or
- (c) an order granting leave to enforce a judgment under sections 20E and 20F of the 1998 Act,
- (d) an enforcement order under Article 30 of the Maintenance Regulation and Regulation 9(3) of the 2011 Regulations, or
- (e) a declaration of enforceability mentioned in Regulation 2(1) of the 2019 Regulations;

“relevant provisional measures” means, as the case may be,

- (a) provisional, including protective, measures under Article 35 of Regulation No. 1215/2012 or section 13 of the 1998 Act (including an application for provisional (including protective) measures under the Lugano Convention by virtue of section 20K of the 1998 Act), or
- (b) provisional, including protective, measures of a kind referred to in Article 20 of Regulation No. 2201/2003 (but not including any such measures which may be sought as interim directions pursuant to section 12 or section 26 of the Child Abduction and Enforcement of Custody Orders Act 1991, and to which Order 133, rule 6 applies), or
- (c) preservation measures under Article 38 of the Insolvency Regulation, or
- (d) provisional, including protective, measures under Article 14 of the Maintenance Regulation, or

- (e) appropriate measures for the purposes referred to in Article 6(2)(i) of the 2007 Hague Convention, as referred to in Regulation 15 of the 2019 Regulations.

II. Application to the court for provisional measures

2. Unless made in accordance with rule 8, an application for relevant provisional measures shall be made ex parte to the High Court.

3. (1) Unless made in accordance with rule 8, an application for relevant provisional measures shall be grounded upon an affidavit specifying the relevant provisional measures sought pursuant to:

- (a) Article 35 of Regulation No. 1215/2012 or section 13 of the 1998 Act (including an application for provisional (including protective) measures under Article 31 of the Lugano Convention by virtue of section 20K of the 1998 Act), or
- (b) Article 20 of Regulation No. 2201/2003, or
- (c) Article 38 of the Insolvency Regulation, or
- (d) Article 14 of the Maintenance Regulation or
- (e) Article 6(2)(i) of the 2007 Hague Convention and Regulation 15 of the 2019 Regulations.

(2) The affidavit by which the application is made, in addition to setting out the information and exhibiting the documents necessary to ground the application, shall:

- (a) state the nature of the proceedings or intended proceedings and exhibit a certified true copy of the document or documents used or proposed to be used to institute the proceedings;
- (b) specify the Member State of the European Union or, in the case of applications under the Lugano Convention, the Contracting State of the Lugano Convention or, in the case of applications under the 2019 Regulations, the state bound by the 2007 Hague Convention in which the proceedings have been commenced or are to be commenced;
- (c) state the particular provisions of the relevant European Union instrument by which the court of the Member State of the European Union (or, in the case of an application under the Lugano Convention, of the Contracting State of the Lugano Convention) has assumed jurisdiction or, in the case of intended proceedings, would be entitled to assume jurisdiction.

4. The Court may make ex parte any interim order for relevant provisional

measures upon such terms as to costs or otherwise or subject to such undertaking, if any, as the Court may think just; and any party affected by such order may move to set it aside. Every application for an interlocutory order for relevant provisional measures shall be brought by notice of motion.

III. Application for the recognition and/or enforcement of a judgment given outside the State

5. (1) An application for the enforcement of a judgment pursuant to Chapter III of Regulation No. 2201/2003 or sections 7 or 20E of the 1998 Act shall be made ex parte to the Master.

(2) Where an application under the Maintenance Regulation for the recognition and enforcement of a decision given in a Member State not bound by the 2007 Hague Protocol is to be sent by the Central Authority to the Master in accordance with Regulation 17(2) of the 2011 Regulations, the Central Authority shall lodge with the Master the documents referred to in rule 8, and the determination of the application shall be notified in accordance with Regulation 17(3) of the 2011 Regulations.

(3) Any application under the Maintenance Regulation for the recognition and enforcement of a decision given in a Member State not bound by the 2007 Hague Protocol other than an application referred to in sub-rule (2) shall be made by motion ex parte grounded upon an affidavit specifying the protective measures (if any) requested by the applicant pursuant to Article 14 (and subject to Article 36(3)) of the Maintenance Regulation and exhibiting the documents mentioned in rule 8(1)(a), (b) and (c).

(4) The provisions of sub-rules (2) and (3) shall apply mutatis mutandis to a decision given in a Member State bound by the 2007 Hague Protocol to which paragraph (a) or (b) of Article 75 of the Maintenance Regulation applies.

(5) Where an application under the 2019 Regulations for the recognition or recognition and enforcement of a decision given in a state bound by the 2007 Hague Convention is to be sent by the Central Authority to the Master in accordance with Regulation 9 of the 2019 Regulations for determination in accordance with Regulation 12 of the 2019 Regulations, the Central Authority shall lodge with the Master the documents referred to in rule 8(2), and the determination of the application shall be notified to the requesting Central Authority in accordance with Regulation 9(2) of the 2019 Regulations.

(6) Any application under Article 19(5) or Article 37 of the 2007 Hague Convention for the recognition and enforcement of a decision given in a state bound by the 2007 Hague Convention, other than an application referred to in sub-

rule (5), shall be made by motion ex parte grounded upon an affidavit and exhibiting the documents mentioned in rule 8(3).

6. An application for enforcement referred to in rule 5(1) shall be made by motion ex parte grounded upon an affidavit specifying the protective measures (if any) requested by the applicant pursuant to section 13(3) of the 1998 Act or, as the case may be, section 20K, of the 1998 Act, and exhibiting:

- (a) in the case of an application pursuant to Article 38 of the Lugano Convention, the judgment which is sought to be enforced or a certified or otherwise duly authenticated copy thereof and the certificate referred to in Article 54 of the Lugano Convention, or
- (b) in the case of an application pursuant to Article 28 of Regulation No. 2201/2003, the judgment which is sought to be enforced or a certified or otherwise duly authenticated copy thereof and the certificate referred to in Article 39 of Regulation No. 2201/2003 and, in the case of a judgment given in default, the original or certified copy of a document which establishes that the party in default was served with the document or documents instituting the proceedings or with the equivalent document, or any document indicating that the defendant has accepted the judgment unequivocally, or
- (c) in any other case:
 - (1) the judgment which is sought to be enforced or a certified or otherwise duly authenticated copy thereof;
 - (2) in the case of a judgment given in default, the original or certified copy of a document which establishes that the party in default was served with the document or documents instituting the proceedings or with an equivalent document or documents in sufficient time to enable him to arrange for his defence;
 - (3) documents which establish that, according to the law of the state in which it has been given, the judgment is enforceable and has been served;
 - (4) where applicable, a document showing that the applicant is in receipt of legal aid in the state in which the judgment was given.

7. The affidavit grounding the application for enforcement referred to in rule 5(1) shall also state:

- (1) whether the said judgment provides for the payment of a sum or sums of money;
- (2) whether interest is recoverable on the judgment or part thereof in accordance with the law of the state in which the judgment was given, and if such be the case, the rate of interest, the date from which the interest is recoverable, and the date on which interest ceases to accrue;

(3) an address for service of proceedings on the party making the application and, to the best of the deponent's knowledge and belief, the name and usual or last known address or place of business of the person against whom judgment was given;

(4) the grounds on which the right to enforce the judgment is vested in the party making the application;

(5) as the case may require, that at the date of the application the judgment has not been satisfied, or the judgment has not been fully satisfied, and the part or amount in respect of which it remains unsatisfied.

8. (1) An application for recognition and enforcement referred to in rule 5(2) shall specify the protective measures (if any) requested by the Central Authority on behalf of the applicant pursuant to Article 14 (and subject to Article 36(3)) of the Maintenance Regulation and shall include:

- (a) a duly authenticated copy of the decision which is sought to be enforced;
- (b) the extract referred to in Article 28(1)(b) of the Maintenance Regulation;
- (c) where necessary, a transliteration or translation (done in accordance with rule 19) of the content of the extract referred to in paragraph (b) into Irish or English.

(2) An application for recognition and enforcement referred to in rule 5(5) shall:

- (a) specify the provisional measures (if any) requested by the Central Authority on behalf of the applicant pursuant to Article 6(2)(i) of the 2007 Hague Convention and Regulation 15 of the 2019 Regulations;
- (b) conform to the requirements of Article 11 of the 2007 Hague Convention, and
- (c) be accompanied by the documents required by Article 11 of the 2007 Hague Convention together with, where necessary, translations (produced in accordance with Regulation 17 of the 2019 Regulations) of such documents into Irish or English.

(3) An application for recognition and enforcement referred to in rule 5(6) shall:

- (a) conform to the requirements of Article 11 of the 2007 Hague Convention, and
- (b) be accompanied by the documents required by Article 11 of the 2007 Hague Convention together with, where necessary, translations (produced in accordance with Regulation 17 of the 2019 Regulations) of such documents into Irish or English.

9. Where the party making the application under rule 5 does not produce the documents referred to in rules 6, 7 or 8, the Master may, if he sees fit, adjourn the application to allow the applicant an opportunity to produce the said documents or, alternatively, accept equivalent documents, or dispense with the production of the said documents.

10. (1) A relevant order made under the 1968 Convention or the Lugano Convention shall state the period in accordance with:

- (a) Article 36 of the 1968 Convention, or
- (b) Article 43(5) of the Lugano Convention, (as the case may be) within which an appeal may be made against the relevant order for enforcement, and shall:
 - (i) contain a notification that execution of the judgment or decision will not issue until after the expiration of that period, and
 - (ii) specify the protective measures (if any) granted pending execution.

(2) A relevant order made under Regulation No. 2201/2003 shall:

- (i) state the period in accordance with Article 33(5) of Regulation No. 2201/2003 within which an appeal may be made against the relevant order for enforcement, and
- (ii) contain a notification that execution of the judgment or decision may issue before the expiration of that period, and
- (iii) contain a notification that execution of the judgment or decision may be stayed on application to the Court in the event of an ordinary appeal in the Member State of origin, and
- (iv) specify the protective measures (if any) granted pending execution.

(3) A relevant order made under the Maintenance Regulation shall:

- (i) state the period in accordance with Article 32 of the Maintenance Regulation within which an appeal may be made against the relevant order for enforcement, and
- (ii) contain a notification that execution of the judgment or decision may issue before the expiration of that period, and
- (iii) contain a notification that execution of the judgment or decision shall, on application to the Court of the party against whom enforcement is sought, be stayed if the enforceability of the judgment or decision is suspended in the Member State of origin by reason of an appeal, and

- (iv) specify the protective measures (if any) granted pending execution.

(4) A relevant order made under the 2019 Regulations shall:

- (i) state the period in accordance with Article 23(6) of the 2007 Hague Convention within which an appeal may be made against the relevant order for enforcement, and
- (ii) contain a notification that execution of the decision may issue before the expiration of that period, and
- (iii) specify the relevant provisional measures (if any) granted pending execution.

11. Notice of the making of a relevant order shall be served together with the relevant order on the person against whom the relevant order was made by delivering it to him personally or in such other manner as the Master may direct. The provisions of Order 11A, Order 11B or Order 11C as appropriate shall apply in relation to such a notice as they apply in relation to an originating summons. Notice of the making of a relevant order under the Maintenance Regulation or the 2019 Regulations shall also be given to the Central Authority by delivering a copy of the relevant order to the Central Authority by registered post or in such other manner as the Master may direct.

12. (1) The notice of enforcement shall state:

- (a) full particulars of the judgment or decision declared to be enforceable and the relevant order,
- (b) the name and address of the party making the application and his address for service,
- (c) the protective measures (if any) granted in respect of the property of the person against whom judgment was given,
- (d) the right of the person against whom the relevant order was made to appeal to the High Court against the relevant order, and
- (e) the period within which an appeal against the relevant order may be made.

(2) A notice of enforcement of a relevant order made under the 2019 Regulations shall additionally, in accordance with Regulation 9(2) or, as the case may be, Regulation 12(15) of the 2019 Regulations, include a statement of the provisions of Article 23, paragraphs 5, 6, 7 and 8 of the 2007 Hague Convention.

13. (1) If enforcement is authorised by the Master, the party against whom enforcement is sought may, subject to the provisions of this rule, appeal against the relevant order to the High Court:

- (i) within one month of service thereof or,
- (ii) where the relevant order is made under the Maintenance Regulation or the 2019 Regulations, within thirty days of service thereof.

(2) All such appeals may be brought by notice of motion which shall be served on the party in whose favour the relevant order was granted by the Master. In the case of a relevant order under the Maintenance Regulation or the 2019 Regulations, the notice of motion shall also be served on the Central Authority, but the Central Authority shall not be required to participate in the appeal proceedings.

(3) The High Court shall have power to stay the proceedings, on such terms as it sees fit, if an ordinary appeal has been brought against the judgment which is sought to be enforced in the Member State of the European Union (other than the State) or the Contracting State of the 1968 Convention or Contracting State of the Lugano Convention (other than the State) in which that judgment was given; or if the time for such an appeal has not yet expired, the High Court may specify the time within which such an appeal is to be lodged in the courts of that Member State of the European Union or that Contracting State of the 1968 Convention or Contracting State of the Lugano Convention (as the case may be).

(4) A copy of any order made in an appeal concerning a relevant order under the Maintenance Regulation or the 2019 Regulations shall also be served by the appellant on the Central Authority.

(5) In the case of enforcement proceedings under Chapter III of Regulation No. 2201/2003, if the party against whom enforcement is sought is habitually resident in a Member State of the European Union other than the State, the time for appealing shall be two months and shall run from the date of service, either on him personally or at his residence.

(6) In the case of enforcement proceedings under Title III of the 1968 Convention, if the party against whom enforcement is sought is domiciled in a Member State of the European Union other than the State, the time for appealing shall be two months and shall run from the date of service, either on him personally or at his residence.

(7) In the case of enforcement proceedings under Title III of the Lugano Convention, if the party against whom enforcement is sought is domiciled in a Contracting State of the 1968 Convention or Contracting State of the Lugano Convention other than the State the time for appealing shall be two months and shall run from the date of service, either on him personally or at his residence.

(8) In the case of proceedings under Section 2 of Chapter IV of the

Maintenance Regulation, if the party against whom enforcement is sought is habitually resident in a Member State of the European Union other than the State, the time for appealing shall be 45 days and shall run from the date of service, either on him personally or at his residence.

(9) In the case of proceedings under the 2019 Regulations, if the party against whom enforcement is sought is habitually resident in a state bound by the 2007 Hague Convention other than the State, the time for appealing shall be 60 days and shall run from the date of service, either on him personally or at his residence.

14. If the application for enforcement of the judgment or recognition and enforcement of the decision is refused, the applicant may appeal to the High Court within five weeks from the perfection of the order of the Master. The appeal shall be brought by notice of motion grounded upon an affidavit establishing that the party against whom enforcement is sought has been notified of the appeal and the date specified for the hearing of the appeal in sufficient time to enable him to arrange for his defence or, alternatively, that all necessary steps have been taken to this end.

15. (1) Execution shall not issue on a judgment or decision in respect of which a relevant order has been made under the 1968 Convention, the Lugano Convention or, as the case may be, the Maintenance Regulation, until after the expiration of the period specified in accordance with the provision of rule 13 applicable to the proceedings concerned, or if that period has been extended by the Court, until after the expiration of any such extended period.

(2) If an appeal is made to the High Court under rule 13, execution of a judgment or decision in respect of which a relevant order has been made under the 1968 Convention the Lugano Convention or, as the case may be, the Maintenance Regulation, shall not issue until after such appeal (including any further appeal) is determined.

(3) Any party wishing to issue execution on a judgment or decision in respect of which a relevant order has been made must produce to the appropriate officer an affidavit of service of the relevant order concerned granting leave to enforce a judgment or decision and of any order made in the jurisdiction in relation to the judgment or decision.

16. (1) The following provisions of this rule shall apply to appeals to the Court of Appeal under:

- (a) Article 34 of Regulation No. 2201/2003, or
- (b) Article 41 of the 1968 Convention, or
- (c) Article 44 of the Lugano Convention, or

- (d) Article 33 of the Maintenance Regulation, or
- (e) Regulation 13 of the 2019 Regulations

from a decision of the High Court granting or refusing recognition or enforcement (as the case may be) of a judgment or decision.

(2) Notwithstanding Order 86A, rule 13, every such appeal shall be lodged within five weeks from the date of perfection of the order of the High Court.

(3) It shall be the duty of the Registrar of the Court of Appeal to apply to the appropriate Registrar of the High Court for a signed copy of the note made by the High Court Judge of any question of law raised before him and of the facts and evidence relating thereto and of his decision thereon and on the question or matters submitted to him. Such copies shall be received for the use of the Court of Appeal and shall be used and received at the hearing of the appeal. The Registrar of the Court of Appeal shall further apply to such appropriate High Court Registrar for the transmission to him for the use of the Court of Appeal of a file of all documents and papers relating to the case. If such note as aforesaid cannot be produced, the Court of Appeal shall have power to hear and determine the appeal upon any other evidence or statement of what occurred before the High Court Judge which the Court of Appeal may deem sufficient.

(4) Subject to the provisions of this rule, the provisions of Order 86A, shall, so far as practicable, apply to an appeal mentioned in sub-rule (1).

17. The foregoing rules of this Order shall apply to an application for recognition of a judgment or decision as they apply to an application for enforcement of a judgment with the exception that the applicant shall not be required to produce the documents referred to in rules 6(c)(3) and (4).

18. The foregoing rules of this Order shall apply as appropriate to an application:

- (a) for the enforcement of an instrument or settlement referred to in Title IV of the 1968 Convention or in Title IV of the Lugano Convention, or
- (b) for the enforcement of an instrument or agreement referred to in Section 5 of Chapter III of Regulation No. 2201/2003, or
- (c) for the recognition or enforcement of a court settlement or authentic instrument referred to in Article 48 of the Maintenance Regulation, or
- (d) for the recognition or enforcement of a settlement or agreement referred to in Article 19 of the 2007 Hague Convention, subject to the provisions of Article 30 of the 2007 Hague Convention.

19. Where any judgment, decision, order or document which is required for the purposes of this Order is not in one of the official languages of the State, a translation thereof into the Irish or English language certified by a person competent and qualified for the purpose in one of the Member States of the European Union, Contracting States of the 1968 Convention or Contracting States of the Lugano Convention, as appropriate to the case, shall be admissible as evidence of same. The competence and qualification of the translator shall be verified by affidavit.

IV. Enforcement outside the State of judgments of the High Court, Court of Appeal or Supreme Court

20. In the case of a judgment or decision of the High Court, the Court of Appeal or the Supreme Court sought to be enforced in another Member State of the European Union or, as the case may be, in a Contracting State of the Lugano Convention or in a state bound by the 2007 Hague Convention, a Registrar of the High Court or the Registrar of the Court of Appeal or Supreme Court (as the case may be) shall, at the request of an interested party, give such party a copy of the order and the written judgment (if any) of the Court duly authenticated.

21. (1) In the case of a judgment or decision of the High Court, the Court of Appeal or the Supreme Court (including as to provisional or protective measures) sought to be enforced or recognised in another Member State of the European Union or a Contracting State of the Lugano Convention, any application for a certificate signed by a Registrar of the High Court or the Registrar of the Court of Appeal or Supreme Court (as the case may be) shall be made on affidavit to the said Registrar.

(2) The affidavit by which an application mentioned in sub-rule (1) is made shall:

- (a) state the nature of the proceedings;
- (b) state the particular provision or provisions of Regulation No. 1215/2012 or of Regulation No. 2201/2003 or of the 1968 Convention or of the Lugano Convention by which the Court assumed jurisdiction;
- (c) state the date on which the time for the lodging of an appeal against the judgment or decision will expire or, if it has expired, the date on which it expired;
- (d) state whether notice of appeal against, or in any case where the defendant does not appear, a notice to set aside, the judgment or decision has been entered;
- (e) state whether the judgment is for the payment of a sum of money, the rate of interest, if any, payable on the sum and the date from which interest is payable;

- (f) include annexed thereto two certified true copies of the originating summons or other process by which the proceedings were begun together with one copy of all the proceedings.

(3) In the case of a judgment or decision of the High Court, the Court of Appeal or the Supreme Court (including as to provisional or protective measures) sought to be enforced or recognised in another Member State of the European Union or a Contracting State of the Lugano Convention, any application by a party for an extract in the form in Annex I or Annex II to the Maintenance Regulation, signed by a Registrar of the High Court or the Registrar of the Court of Appeal or Supreme Court (as the case may be) shall be made to the said Registrar, and the requesting party shall:

- (a) lodge with the said Registrar an official duplicate or certified copy of the order recording the decision, and
- (b) file an affidavit in support of the request which affidavit shall:
 - (i) state the particular provision or provisions of the Maintenance Regulation by which the Court assumed jurisdiction,
 - (ii) state the equivalent of the details required in paragraphs (a), (c), (d) and (e) of sub-rule (2), and
 - (iii) give such further information as is required to be provided in the form in Annex I or Annex II to the Maintenance Regulation, as is within the applicant's knowledge, in the sequence in which the information appears in the form concerned.

(4) The certificate mentioned in sub-rule (1) signed by the Registrar of the Court shall, as the case may be, be in the form in Annex I to Regulation 1215/2012, or be in the form in Annex V to the Lugano Convention or be in the form in Annex I or II, as appropriate, to Regulation No. 2201/2003, or in any other case, shall be in accordance with Form No. 1 in Part III of Appendix F and shall be sealed with the seal of the High Court (or the Court of Appeal or Supreme Court, as the case may be), having annexed to it a certified true copy of the originating summons or other originating document by which the proceedings were commenced.

(5) An extract mentioned in sub-rule (3) signed by the Registrar of the Court shall be in the form in Annex I or Annex II, as appropriate, to the Maintenance Regulation, and shall have annexed to it a certified true copy of the originating summons or other originating document by which the proceedings were commenced.

(6) In the case of a judgment or decision in default of appearance, the affidavit grounding an application under sub-rule (2) shall, in addition, exhibit a certified true copy of the document which establishes that the person in default was served

with the document instituting the proceedings which may include the order of the Court deeming the service actually effected to be good.

V. Enforcement in the State of judgments regarding right of access or return of a child

22. (1) Where a party seeks enforcement in the State pursuant to Article 47 of Regulation No. 2201/2003 of a judgment of a kind referred to in Article 41(1) or Article 42(1) of Regulation No. 2201/2003 given in another Member State of the European Union, the application for such enforcement shall be by originating notice of motion entitled:

“The High Court

Family Law

In the Matter of Article 41 or 42 [as the case may be] of Regulation No. 2201/2003

And In the Matter of the Foreign Proceedings entitled “ ””.

(2) The said originating notice of motion shall be grounded on an affidavit exhibiting the documents referred to in Article 45 of Regulation No. 2201/2003 and shall specify the orders or other reliefs sought from the Court for the purposes of the enforcement of the judgment.

(3) The Court may give such directions as appear appropriate as to the service of the originating notice of motion.

VI. Automatic enforceability in the State of certain judgments, etc., given in other member states of the European Union

23. (1) In this rule, “domestic judgment” means any:

- (a) judgment of the Court (including a judgment given or order made by consent or a settlement made a rule of court);
- (b) judgment of the Court of Appeal (including a judgment given or order made by consent or a settlement made a rule of court);
- (c) judgment of the Supreme Court (including a judgment given or order made by consent or a settlement made a rule of court), or
- (d) judgment entered in the Central Office pursuant to these Rules or on foot of any order,

to which Regulation No. 1215/2012 applies.

(2) Subject to Regulation No. 1215/2012 and to this Order, the provisions of these Rules, in relation to the enforcement of a domestic judgment, shall apply to:

- (a) a judgment to which Article 39 of Regulation No. 1215/2012 applies;
- (b) an authentic instrument to which Article 58(1) of Regulation No. 1215/2012 applies, and
- (c) a court settlement to which Article 59 of Regulation No. 1215/2012 applies,

and any reference in any of the said Rules to a “judgment” shall, where the context so admits, include a reference to such a judgment, authentic instrument or court settlement.

(3) Where an application is made by a person for enforcement measures under these Rules, in respect of a judgment, authentic instrument or court settlement referred to in sub-rule (2), such person shall, in addition to producing to the proper officer the documents required in support of the person’s request or application for such measures, produce to the proper officer:

- (a) the documents referred to in Article 42(1) or, as the case may be, Article 42(2) and, where required, Article 42(3) or Article 42(4) of Regulation No. 1215/2012 and
- (b) an affidavit verifying service of the certificate issued pursuant to Article 53 of Regulation No. 1215/2012 in the manner required by Article 43(1) of Regulation No. 1215/2012 and confirming whether or not the requirements of Article 43(2) (as to service of a translation of the judgment) apply and if so, that they have been complied with.

(4) The following applications to the Court concerning a judgment, authentic instrument or court settlement referred to in sub-rule (2) shall be made:

- (a) where no proceedings concerning the judgment, authentic instrument or court settlement referred to in sub-rule (2) have already been commenced before the Court, by originating notice of motion to the Court entitled “In the matter of Regulation No. 1215/2012” and grounded upon an affidavit sworn by or on behalf of the moving party, or
- (b) where proceedings concerning the same judgment, authentic instrument or court settlement referred to in sub-rule (2) have already been commenced before the Court, by motion on notice in those proceedings, grounded upon an affidavit sworn by or on behalf of the moving party:
 - (i) an application pursuant to Article 45 of Regulation No. 1215/2012 for refusal of recognition;
 - (ii) an application pursuant to Article 46 of Regulation No. 1215/2012 for refusal of enforcement;
 - (iii) an application for a decision under Regulation 5(1)(c) of the European Union (Civil and Commercial Judgments)

Regulations 2015 that there are no grounds for refusal of recognition of a judgment, or

- (iv) an application on the grounds set out in Article 38 of Regulation No. 1215/2012 to suspend proceedings before the Court.

(5) Save where the Court, being satisfied as to the urgency of the application, otherwise permits, copies of the originating notice of motion or notice of motion and affidavit referred to in this rule (and any exhibits to that affidavit) shall be served by the moving party (a) not later than seven days before the date fixed for the hearing of the originating notice of motion or notice of motion, on the opposing party or person by or against whom enforcement is sought and (b) on such other person or persons as the Court may direct.

(6) A party or (in the case of an authentic instrument) person who can demonstrate his or her entitlement to the benefit of a judgment, authentic instrument or court settlement referred to in sub-rule (2) shall be at liberty to apply to the proper officer in the Central Office to cause particulars of the judgment, authentic instrument or court settlement to be entered in the books kept for the purpose set out in Order 41, rule 6 in the like manner as is provided for in Order 41, rule 6 in relation to domestic judgments. For the avoidance of doubt, such a person shall not be obliged to apply to the proper officer for this purpose.”

EXPLANATORY NOTE

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

These rules substitute Order 42A of the Rules of the Superior Courts to provide for the operation of the European Union (Hague Maintenance Convention) Regulations 2019 (S.I. No. 594 of 2019).

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Tel: 076 110 6834
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

ISBN 978-1-3993-1116-8



9 781399 311168

€4.50