



STATUTORY INSTRUMENTS.

**S.I. No. 606 of 2023**

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RULES OF THE SUPERIOR COURTS (ORDERS 36 AND 52) 2023

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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, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 12th day of October, 2023.

Donal O'Donnell Chairperson

George Birmingham

David Barniville

Máire R. Whelan

Nuala Butler

Richard Humphreys

Siobhán Phelan

Yvonne McNamara

Michele O'Boyle

James Finn

Mary Cummins

John Mahon

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

Dated this 5th day of December, 2023.

Helen McEntee

Minister for Justice

S.I. No. 606 of 2023

**RULES OF THE SUPERIOR COURTS (ORDERS 36 AND 52) 2023**

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Orders 36 and 52) 2023, shall come into operation on the 8th day of December 2023.

(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 2023.

2. These Rules shall apply in proceedings commenced both before and from the date on which these Rules come into operation.

3. The Rules of the Superior Courts are amended:

(i) by the substitution for rule 33 of Order 36 of the following rule:

“33. A party who obtains any verdict, order or judgment where any other party has not appeared at the trial shall serve on the party who has not appeared a copy of the order of the Court granting judgment within 28 days from the passing and perfection of such order, and the verdict, order or judgment may be set aside by the Court upon such terms as may seem fit, upon an application made no later than 28 days after such service of a copy of that order.”, and

(ii) by the substitution for rule 12 of Order 52 of the following rule:

“12. (1) Where any of the parties to a motion on notice fails to attend, the Court may proceed in the absence of such party.

(2) A party who obtains an order against another party who did not appear on the hearing of such motion (in this rule, the “original motion”) shall serve a copy of the Court’s order on the party who did not appear within 28 days from the passing and perfection of such order.

(3) An application to set aside such order, upon such terms as the Court sees fit, may be made no later than 28 days after service of a copy of that order. The original motion shall not be reheard unless the Court is satisfied that the party failing to attend on the hearing of the original motion was not guilty of wilful delay or negligence.

(4) Where the Court determines that it will rehear the original motion, the costs occasioned by the non-attendance at the first hearing shall be in the discretion of the Court, which may fix the same at the time, and may direct them to be paid by the party concerned or his solicitor before he shall be permitted to have the original motion reheard, or may make such other order as to such costs as it thinks just.”

**4 [606]**

4. The form in the Schedule shall be substituted for Form 19 in Appendix C to the Rules of the Superior Courts.

Schedule

No. 19.

NOTICE OF TRIAL UNDER ORDER 36, RULE 6.

[Title of action].

Take notice of trial of [\*this action or the issues in this action ordered to be tried or as the case may be] without a jury for such day, not being less than \*\*twenty-one days from the date of service of this notice, as shall be fixed by the Court at .....

And take further notice that in the event of your not signifying your desire by notice in writing to have the same tried with a jury within fourteen days from the service of this notice of trial (or such other time as the Court may allow), the action [or as the case may be] will be tried by a judge without a jury.

\*Insert as appropriate

\*\*where short notice of trial has been given in accordance with Order 36 rule 16, insert lesser amount of notice to be given.

#### EXPLANATORY NOTE

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

These rules amend the Rules of the Superior Courts Order 36 rule 33, Order 52 rule 12 and Form No. 19 Appendix C to require a successful moving party to notify an absent party of an order made in their absence within 28 days.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
BÓTHAR BHAILE UÍ BHEOLÁIN,  
CILL MHAIGHNEANN,  
BAILE ÁTHA CLIATH 8,  
D08 XAO6

Tel: 046 942 3100  
r-phost: publications@opw.ie

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