

THE COURTS SERVICE OF IRELAND – RULES & FEES

The Rules of the Superior Courts

Order: 42B

S.I. No. 3 of 2006: European Enforcement Orders

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, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act, 1961 section 48), and the Courts (Supplemental Provisions) Act 1961, section 14, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 14th day of December, 2005.

Joseph Finnegan
Richard Johnson
Lyndon MacCann
Tony Hunt
Patrick O'Connor
Matthew Feely
Noel Rubotham

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

Dated this 10th day of January, 2006.

MICHAEL MCDOWELL

Minister for Justice, Equality and Law Reform

1. The Rules of the Superior Courts are hereby amended by the insertion immediately following Order 42A thereof, of the following:

“Order 42B

European Enforcement Orders

1. In this Order:-

“Regulation No. 805/2004” means Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 143/15 of 30 April 2004;

“Regulation No. 1869/2005” means Commission Regulation (EC) No 1869/2005 replacing the Annexes to Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 300/6 of 16 November 2005;

“the 2005 Regulations” means the European Communities (European Enforcement Order) Regulations 2005 (S.I. No. 648 of 2005);

“domestic judgment” means any

(a) judgment of the High Court for any sum of money or order of the High Court requiring payment of any sum of money (including a judgment given or order made by consent or a settlement made a rule of court), or

(b) judgment of the Supreme Court for any sum of money or affirming, whether having varied the same or not, a judgment of the High Court for any sum of money (including a judgment given or order made by consent or a settlement made a rule of court), or

(c) judgment entered in the Central Office pursuant to these Rules or on foot of any order for any sum of money,

to which Regulation No. 805/2004 applies.

2. Subject to Regulation No. 805/2004, the provisions of Orders 42, 45 and 46 of these Rules, insofar as they apply to a domestic judgment, shall apply to a judgment which has been certified as a European Enforcement Order in the Member State of origin and to which Regulation 7 of the 2005 Regulations applies, and any reference in any of the said Orders 42, 45 and 46 to a “judgment” shall, where the context so admits, include a reference to such a judgment which has been so certified and to which the aforementioned provision of the 2005 Regulations applies.

3. Subject to Regulation No. 805/2004, the provisions of Orders 42, 45 and 46 of these Rules, insofar as they apply to a domestic judgment, shall, where appropriate and with such modifications as may be necessary, apply to a court settlement referred to in Article 24 of Regulation No. 805/2004 or an authentic instrument which has been certified as a European Enforcement Order in the Member State of origin and to which Regulation 7 of the 2005 Regulations applies, and any reference in any of the said Orders 42, 45 and 46 to a “judgment” shall, where the context so admits, include a reference to such a court settlement or authentic instrument which has been so certified and to which the aforementioned provision of the 2005 Regulations applies.

4. (1) Where a domestic judgment has been given or made by a Judge of the High Court, an application to certify that domestic judgment as a European Enforcement Order may be made ex parte to the High Court at the hearing at which that domestic judgment is given or made, or if not made at that hearing, may be made ex parte in accordance with sub-rule (2) of this rule.

(2) In the case of any domestic judgment of the High Court other than a domestic judgment certified as a European Enforcement Order at the hearing in accordance with sub-rule (1) of this rule, any application to certify that domestic judgment as a European Enforcement Order shall be made ex parte to the Master.

(3) Where a domestic judgment has been given or made by the Supreme Court, any application to certify that domestic judgment as a European Enforcement Order shall be made ex parte to that Court.

5. (1) An application to certify a domestic judgment as a European Enforcement Order shall, unless the Master, the High Court or the Supreme Court (as the case may be) otherwise directs or permits, be grounded upon an affidavit sworn by or on behalf of the moving party in the Form No. 1 in Appendix F, Part IV or incorporating the matters in paragraphs 2 to 5 of that Form.

(2) A certificate issued on foot of an application pursuant to Article 6(1) of Regulation No. 805/2004 shall be in the form in Annex I to Regulation No. 1869/2005.

6. (1) Where a judgment is given or order or ruling is made that a domestic judgment which has been certified as a European Enforcement Order has ceased to be enforceable or its enforceability is or has been suspended or limited, an application under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of that domestic judgment may be made by either party to the proceedings in which the domestic judgment was given ex parte to the court at the hearing at which the later judgment is given or order or ruling is made.

(2) If not made at the hearing referred to in sub-rule (1), an application to the High Court or (where the Supreme Court is the court of origin) to the Supreme Court under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of a domestic judgment may be made in accordance with rule 8.

(3) A certificate issued on foot of an application pursuant to Article 6(2) of Regulation No. 805/2004 shall be in the form in Annex IV to Regulation No. 1869/2005.

7. (1) Where, on any appeal to a Judge of the High Court or to the Supreme Court, a judgment is given or order, ruling or decision is made in respect of a domestic judgment which has been certified as a European Enforcement Order, an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate may be made by either party to the said appeal ex parte to the High Court or Supreme Court (as the case may be) at the hearing of the said appeal, or on the delivery of the judgment on the said appeal.

(2) If not made on the occasion referred to in sub-rule (1), an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate may be made in accordance with rule 8.

(3) A replacement certificate issued on foot of an application pursuant to Article 6(3) of Regulation No. 805/2004 shall be in the form in Annex V to Regulation No. 1869/2005.

8. Unless made in accordance with rule 6(1) or (as the case may be) rule 7(1) of this Order, an application under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of a domestic judgment or an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate shall be made by motion to the Master or to the Supreme Court (as the case may be) on notice to the judgment creditor or judgment debtor, grounded, where necessary, upon an affidavit sworn by or on behalf of the moving party and the provisions of Order 52 of these Rules shall apply to any such motion. There shall be exhibited to any grounding affidavit in any such application a completed draft of the form of certificate

sought, and the contents of such draft certificate shall be verified in the grounding affidavit.

9. (1) An application under Article 10(1) of Regulation No. 805/2004 for the rectification or the withdrawal of a European Enforcement Order certificate shall be made to the court which certified the domestic judgment concerned as a European Enforcement Order or, where the Master so certified the domestic judgment, to the Master. Before making such application, the moving party shall complete the form of application in Annex VI to Regulation No. 1869/2005 and shall deliver such completed form of application to the Central Office, or (where the Supreme Court is the court of origin) to the Office of the Registrar of the Supreme Court, which shall assign a return date to such application. The moving party shall serve a copy of such completed form of application on the judgment creditor or (as the case may be) the judgment debtor, together with a copy of any affidavit sworn by or on behalf of the moving party to ground the application. Where rectification is sought, there shall be exhibited to any grounding affidavit in any such application a copy of the form of European Enforcement Order certificate previously issued, marked with the rectification sought, and the contents of such marked certificate shall be verified in the grounding affidavit. A notice of application in the said form shall be treated for all purposes as if it were a motion to the court or (as the case may be) to the Master.

(2) Where, on any application under this rule, it is determined that the European Enforcement Order certificate in respect of the domestic judgment concerned ought be rectified or withdrawn, the person on whose application the domestic judgment concerned was certified as a European Enforcement Order shall within seven days of such determination lodge the original European Enforcement Order certificate in respect of the domestic judgment concerned in the Central Office or (where the Supreme Court certified the domestic judgment concerned as a European Enforcement Order) the Office of the Registrar of the Supreme Court. In the case of rectification, a Registrar of the High Court or (as the case may be) the Registrar of the Supreme Court shall rectify such certificate, resign, re-seal and subject to any direction made in that regard, re-issue such rectified certificate to the person on whose application the domestic judgment concerned was certified as a European Enforcement Order. In the case of withdrawal such Registrar shall cancel such certificate.

(3) Where the person on whose application the domestic judgment concerned was certified as a European Enforcement Order fails in accordance with sub-rule (2) to lodge the original European Enforcement Order certificate within seven days of a determination, the Registrar concerned shall, at the request of the applicant, provide to the applicant a certificate under the seal of the court certifying the fact that the European Enforcement Order certificate has been rectified or (as the case may be) withdrawn. Such certificate shall be in the in the Form No. 2 in Appendix F, Part IV.

10. (1) The following certificates may be signed and sealed by a Registrar of the High Court on behalf of the High Court or (where the Master has granted an application for the certificate concerned in accordance with rule 4(2), rule 8 or rule 9) on behalf of the Master, or by the Registrar of the Supreme Court on behalf of the Supreme Court:

(i) a European Enforcement Order certificate – judgment (Annex I to Regulation No. 1869/2005) (including for the avoidance of doubt, such certificate as

rectified pursuant to Article 10(1) of Regulation No. 805/2004 and in accordance with rule 9(2) of this Order);

(ii) a certificate of lack or limitation of enforceability, (Annex IV to Regulation No. 1869/2005) pursuant to Article 6(2) of Regulation No. 805/2004;

(iii) a European Enforcement Order replacement certificate, (Annex V to Regulation No. 1869/2005) pursuant to Article 6(3) of Regulation No. 805/2004;

(iv) any certificate which seems necessary in accordance with rule 9(3) of this Order.

(2) The Registrar concerned may at the request of the applicant therefor, issue a duplicate of any of the certificates referred to in sub-rule (1).

(3) The Master, the High Court or the Supreme Court (as the case may be) may direct the applicant to lodge a draft of the completed form of a certificate, where such draft certificate has not already been exhibited to an affidavit grounding the application for the certificate.

11. Where an application is made by a judgment creditor for enforcement measures under Order 42, Order 45 or Order 46 of these Rules, in respect of a judgment which has been certified as a European Enforcement Order in a Member State of origin other than the State, such judgment creditor shall, in addition to producing to the proper officer the documents required in support of the judgment creditor's request or application for such measures, produce to the proper officer the documents referred to in Article 20(2) of Regulation No. 805/2004.

12. An application by a debtor for refusal of enforcement under Article 21 of Regulation No. 805/2004 shall be made by originating notice of motion to the High Court entitled "In the matter of Article 21 of Regulation No. 805/2004" and grounded upon an affidavit sworn by or on behalf of the debtor. Save where the High Court, being satisfied as to the urgency of the application, otherwise permits, copies of the originating notice of motion and affidavit referred to in this rule (and any exhibits to that affidavit) shall be served by the debtor (a) not later than seven days before the date fixed for the hearing of the originating notice of motion, on the person to whom the European Enforcement Order was issued and (b) on such other person or persons as the High Court may direct.

13. (1) Where a debtor has, in the Member State of origin, in accordance with Article 23 of Regulation No. 805/2004, challenged a judgment certified as a European Enforcement Order, including an application for review within the meaning of Article 19 of Regulation No. 805/2004, or applied for the rectification or withdrawal of a European Enforcement Order certificate in accordance with Article 10 of Regulation No. 805/2004, an application by the debtor for any relief under Article 23 of Regulation No. 805/2004 shall be made by originating notice of motion to the High Court entitled "In the matter of Article 23 of Regulation No. 805/2004" and grounded upon an affidavit sworn by or on behalf of the debtor. Such affidavit shall set out that the debtor has challenged the judgment certified as a European Enforcement Order or applied for the rectification or withdrawal of a European Enforcement Order certificate and shall exhibit a copy of any document (and,

where the said document is not in one of the official languages of the State, a certified translation thereof) by which such challenge or application has been made.

. (2) Save where the High Court, being satisfied as to the urgency of the application, otherwise permits, copies of the originating notice of motion and affidavit referred to in sub-rule (1) (and any exhibits to that affidavit) shall be served by the debtor (a) not later than seven days before the date fixed for the hearing of the originating notice of motion, on the person to whom the European Enforcement Order was issued and (b) on such other person or persons as the High Court may direct.

14. A judgment creditor in respect of a judgment which has been certified as a European Enforcement Order in a Member State of origin other than the State shall be at liberty to apply to the proper officer in the Central Office to cause particulars of the European Enforcement Order 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, a judgment creditor referred to in this rule shall not be obliged to apply to the proper officer for this purpose.”

.....

3. The Schedule hereto shall be inserted to the Rules of the Superior Courts as Part IV of Appendix F thereto.

4. These Rules shall come into operation on the 7th day of February 2006.

5. These Rules shall be construed together with the Rules of the Superior Courts 1986 to 2006 and may be cited as the Rules of the Superior Courts (European Enforcement Orders) 2006.

The Rules of the Superior Courts

Amendment to: Appendix F

S.I. No. 3 of 2006: Rules of the Superior Courts (European Enforcement Orders) 2006 - Part IV - Form 1

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, and the Courts of Justice Act 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act, 1961 section 48), and the Courts (Supplemental Provisions) Act 1961, section 14, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 14th day of December, 2005.

Joseph Finnegan
Richard Johnson
Lyndon MacCann
Tony Hunt
Patrick O'Connor
Matthew Feely
Noel Rubotham

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

Dated this 10th day of January, 2006.

MICHAEL MCDOWELL
Minister for Justice, Equality and Law Reform

.....

3. The Schedule hereto shall be inserted to the Rules of the Superior Courts as Part IV of Appendix F thereto.

4. These Rules shall come into operation on the 7th day of February 2006.

5. These Rules shall be construed together with the Rules of the Superior Courts 1986 to 2006 and may be cited as the Rules of the Superior Courts (European Enforcement Orders) 2006.

**SCHEDULE
APPENDIX F, PART IV**

No. 1

O. 42B, r. 5(1)

[Title as in the proceedings]

I, AB,of , the (*plaintiff or state other capacity*) in the above-entitled proceedings, aged eighteen years and upwards MAKE OATH and say as follows:

1. [State deponent's authority]. I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears, I believe the same to be true.

2. I beg to refer to the proceedings had herein and to the [judgment given/order made] on theday of20..... where [judgment was given for the plaintiff / the defendant was ordered to pay the plaintiff] the sum of €..... . I say that the said [judgment/order] amounts to a judgment on an uncontested claim, within the meaning of Regulation (EC) No 805/2004.

3. The claim herein was for payment of a specific sum of money which had fallen due and that the claim was uncontested within the meaning of Article 3 of Regulation (EC) No 805/2004 because:

[state which of the circumstances set out in Article 3 applies]

4. The [judgment / order] may be certified as a European Enforcement Order under Article 6 of Regulation (EC) No 805/2004 because:

*each of the conditions set out in paragraphs (a), (b), (c) and (where appropriate) (d) of paragraph 1 of Article 6 of the said Regulation is met in respect of the [judgment / order] or

*(where any of the procedural requirements set out in any one or more of Articles 13 to 17 inclusive of Regulation (EC) No 805/2004 is not met) *each of the conditions set out in paragraphs (a), (b) and (where appropriate) (d) of paragraph 1 of Article 6 of the said Regulation is met in respect of the [judgment / order] and, [state the basis upon which under Article 18(1) or Article 18(2) of the Regulation any non-compliance was cured]

5. I beg to refer to a completed draft European Enforcement Order certificate in the form in Annex I to Regulation No. 1869/2005 upon which marked "A" I have signed my name prior to the swearing hereof and I say that the contents of the said draft certificate as completed are true. I accordingly pray that the [judgment / order] be certified as a European Enforcement Order in accordance with Article 6 of the said Regulation No. 805/2004 in the form of the draft exhibited hereto.

SWORN etc

No. 2

O. 42B, r. 9(3)

[Title as in the proceedings]

Regulation (EC) No 805/2004

CERTIFICATE OF *RECTIFICATION / *WITHDRAWAL OF A EUROPEAN ENFORCEMENT ORDER CERTIFICATE (Article 10(3))

TAKE NOTICE that on application made to this Court on the....day of200....

THE FOLLOWING EUROPEAN ENFORCEMENT ORDER CERTIFICATE

1. Member State of origin: IRELAND (IE)

2. Court/Authority issuing the certificate:

2.1 Name: *Supreme Court/*High Court/*Master of the High Court

2.2 Address: Four Courts, Dublin 7, Ireland

2.3 Tel/fax/e-mail:

3. If different, Court/Authority issuing the judgment:

3.1 Name: *Supreme Court/*High Court/*Master of the High Court

3.2 Address: Four Courts, Dublin 7, Ireland

3.3 Tel/fax/e-mail:

4. Judgment:

4.1 Date:

4.2 Reference number (record number):

4.3 Parties:

4.3.1 Name and address of creditor(s):

4.3.2 Name and address of debtor(s):

HAS BEEN

*5. RECTIFIED as due to a material error there is the following discrepancy between the European Enforcement Order Certificate and the underlying judgment:

*6. WITHDRAWN because:

6.1 *the certified judgment was related to a consumer contract but was given in a Member State where the consumer is not domiciled within the meaning of Article 59 of Regulation (EC) No. 44/2001.

6.2 *the European Enforcement Order Certificate was clearly wrongly granted for another reason:.

and the original of the said European Enforcement Order Certificate (and every duplicate thereof) has not been lodged with this Court.

Done at the Four Courts, Dublin on the.....day of.....200....

Signed.....

A Registrar of the High Court of Ireland

[or the Registrar of the Supreme Court of Ireland]

(seal)

*delete where appropriate

The Rules of the Superior Courts

Order: 13

DEFAULT OF APPEARANCE.

The amendment(s) below have been made to this instrument. Click on the link(s) to view:

[No13-S.I. No. 248 Of 2005: Rules Of The Superior Courts \(Personal Injuries\) 2005](#)

[No13-S.I. No. 14 Of 2007: Rules Of The Superior Courts \(Statutory Applications And Appeals\) 2007](#)

1. Where no appearance has been entered to a summons for a defendant who is an infant or a person of unsound mind not so found by inquisition, the plaintiff shall, before taking any further step in the proceeding against the defendant, apply to the Master for an order that some proper person be assigned guardian of such defendant by whom he may appear and defend the proceeding. But no such order shall be made unless it appears on the hearing of such application that the summons was duly served, and that notice of such application was, after the expiration of the time allowed for appearance, and at least six clear days before the day in such notice named for hearing the application, served upon or left at the dwellinghouse of the person with whom or under whose care such defendant was at the time of serving such summons and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) served upon or left at the dwellinghouse of the father or guardian, if any, of such infant, unless the Master at the time of hearing such application shall dispense with such last mentioned service.
2. Where any defendant fails to appear to a summons, and the plaintiff is desirous of proceeding upon default of appearance under any of the following rules of this Order or Order 37, rule 12, he shall, before taking such proceeding upon default, file an affidavit of service of the summons or notice in lieu of service, as the case may be.
3. Where an originating summons (whether plenary or summary) is indorsed with a claim for a liquidated demand, and the defendant fails, or all the defendants, if more than one, fail to appear thereto, the plaintiff may enter final judgement in the Central Office for such sum as is mentioned in the affidavit required by rule 18 not exceeding the sum indorsed on the summons, together with interest (if any) to the date of the judgement and costs. Provided that in proceedings by a money-lender, or the personal representative or representatives of a money-lender, or an assignee, for the recovery of money lent by the money-lender, or the enforcement of any agreement or security relating to any such money, judgement shall not be entered in default of appearance unless the leave of the Master or the Court as the case may be, has been obtained in accordance with the provisions of rule 14. Provided also that in actions to recover a debt or liquidated demand arising under a hire-purchase agreement or credit-sale agreement (as defined by the Hire-Purchase Act, 1946) or any contract of guarantee relating to such an agreement, judgement shall not be entered in default of appearance unless the leave of the Master or the Court, as the case may be, has been obtained in accordance with the provisions of rule 15.

4. In case no appearance has been entered in a proceeding for the recovery of land within the time limited for appearance, or if an appearance be entered but the defence be limited to part of or to an undivided share in the land only, the plaintiff shall, subject to the provisions of rule 5, be at liberty, whether claims in respect of mesne profits, arrears of rent, or double rent, or damages for breach of contract, or wrong or injury to the premises claimed, have or have not been indorsed on the summons, to enter judgement in the Central Office that the person whose title is asserted in the summons shall recover possession of the land, or of the part or undivided share thereof to which the defence does not apply. Such judgement shall not contain any award of costs, but same shall be without prejudice to the plaintiff's right to have the costs taxed by the proper officer, and to proceed by action for recovery of such mesne profits, arrears of rent or double rent, damages, and costs, or any of them. Provided that if the proceeding be for recovery of land for non-payment of rent, no judgement shall be entered under this rule until an affidavit has been filed made by the landlord, his agent, receiver, or clerk, stating that there was at the commencement of the proceeding at least one year's rent due over and above all just and fair allowances.

5. In case no appearance has been entered in a proceeding for the recovery of land within the time limited for appearance, or if an appearance be entered but the defence be limited to part of or to an undivided share in the land only, the plaintiff, in lieu of proceeding under rule 4, shall, as to the claim for recovery of such land or such part or undivided share thereof, as the case may be, and the claim (if any) in respect of mesne profits, arrears of rent, or double rent, or damages for breach of contract, or wrong or injury to the premises claimed, be at liberty (in the case of a proceeding commenced by plenary summons) to proceed under rule 6 or (in the case of a proceeding commenced by summary summons) to set the summons down for hearing on such day as the Master may fix, and in such latter case, such judgement may be given, on the hearing of the summons, as the Master, in a case within his jurisdiction, or the Court may consider the plaintiff to be entitled to.

6. In case of default of appearance by any defendant (other than such defendant as is in rule 1 mentioned) to a plenary summons, the plaintiff shall, except in the case of a claim otherwise provided for in any of the preceding rules of this Order, deliver a statement of claim by filing the same in the Central Office and thereupon may apply to the Court for judgement in the proceeding in default of appearance, and (if necessary) ascertainment of any damages to which the plaintiff may be entitled, with a jury in case any party is entitled to a jury and requires such, but otherwise without a jury, and in the latter case the Court may fix the amount of such damages itself on evidence by affidavit or otherwise, or may refer the matter to the Master to determine.

7. Where a summons is indorsed with a claim for the delivery of specific goods, either alone or with any other claim, and the defendant fails to appear, the plaintiff may, if he require the specific delivery of such goods, apply to the Court for an order for judgement for the return of the goods detained without giving the defendant the option of retaining such goods upon paying the value thereof and for the ascertainment, in such manner as the Court may direct, of the goods in respect of the non-delivery of which the plaintiff is entitled to recover and which remain undelivered, and, upon the same being so ascertained an order of delivery may issue for the same.

8. Where an originating summons (whether plenary or summary) is indorsed with a claim for a liquidated demand and there are several defendants, of whom one or more appear, to the summons, and another or others of them fail to appear, the plaintiff may enter final judgement as in rule 3 mentioned against such as have not appeared, and may issue execution upon such judgement, without prejudice to his right to proceed against such of the defendants as have appeared.

9. Where there are several defendants to such a plenary summons as is mentioned in rule 6 and one or more of such defendants appear to such summons, and another or others of them fail to appear, the plaintiff may proceed under the said rule against the defendant or defendants so failing to appear and the application for judgement thereunder shall be heard and the damages (if any) to which the plaintiff may be entitled ascertained, as against such defendant or defendants, at the same time as the trial of the proceeding or issue therein against the other defendant or defendants, unless the Court shall otherwise direct.

10. Where a plenary summons is indorsed with a claim for a liquidated demand together with another claim or other claims and any defendant fails to appear thereto, the plaintiff may enter final judgement for the liquidated demand, together with interest (if any) and costs as provided in the preceding rules of this Order, against the defendant or defendants failing to appear and may proceed, as to the other claim or claims, as provided in such of the said rules as may be applicable.

11. Where final judgement is entered pursuant to any of the preceding rules of this Order, it shall be lawful for the Court to set aside or vary such judgement upon such terms as may be just.

12. Where an originating summons is indorsed with a claim on any bond, covenant, or agreement within the Common Law Procedure Amendment Act (Ireland), 1853, section 145, and the defendant fails to appear thereto, no statement of claim shall be delivered and the plaintiff may, without any suggestion of breaches, apply by motion to the Court for leave to enter judgement for such sum as may seem just, and on such application the Court may order judgement to be entered accordingly or may direct such inquiry, or trial of issues, as may appear to be necessary for the ascertainment of the plaintiff's demand, and if the sum ascertained to be due does not amount to the sum mentioned in such bond, covenant, or agreement, the plaintiff, his executors or administrators, may in the event of any subsequent breach, from time to time, apply to the Court, and the Court may thereupon so far as the sum mentioned in such bond, covenant, or agreement, or the remainder thereof, will reach, make such further order or direct such further inquiry or trial to the effect aforesaid, as may be just.

13. In any case in which the plaintiff is not entitled to enter final judgement in the Central Office under any of the preceding rules of this Order, and in which the defendant fails, or all the defendants if more than one, fail to appear, but in which, by reason of payment, satisfaction, abatement of nuisance, or for any other reason, it is unnecessary for the plaintiff to proceed, he may by leave of the Master, to be obtained by motion on notice, enter judgement for costs. Provided that such notice shall be filed and shall be served in the manner in which service of the summons has been effected, or in such other manner as the Master may direct.

14. (1) In proceedings brought by a moneylender or the personal representative or representatives of a moneylender or an assignee for the recovery of money lent by the moneylender or the enforcement of any agreement or security relating to any such money, an application for leave to enter judgement in default of appearance shall be made by notice returnable before the Master not less than four clear days after service of the notice.

(2) Such notice shall not be issued until the time limited for entering an appearance has expired and a proper affidavit of service of the summons has been filed. The notice may be served personally or by registered post, addressed to the defendant at his last known place of address.

(3) At the hearing of the application, whether the defendant appears or not, the Master or the Court, as the case may be—

(a) may exercise the powers of the Court under the Moneylenders Act, 1900 section 1 (1), as amended by the Moneylenders Act, 1933, section 17, and

(b) if satisfied by affidavit or otherwise that the notice has been duly served, may give leave to enter final judgement for the whole or part of the claim, and

(c) as regards any part of the claim as to which leave to enter final judgement is refused, may give any such directions or make any such order as might have been given or made upon the hearing of the summons or of a motion for judgement, as the case might be, if the defendant had entered an appearance, upon such terms as to notice to the defendant and otherwise as may be thought just.

15. In actions to recover a debt or liquidated demand arising under a hire-purchase agreement or credit-sale agreement or any contract of guarantee relating to such an agreement, an application for leave to enter judgement in default of appearance shall be made in the same manner as is prescribed in paragraphs (1) and (2) of rule 14, and judgement shall not be entered until an affidavit shall have been filed stating that the requirements specified in section 3 or section 4 (as the case may be) of the Hire Purchase Act, 1946, as amended by sections 21 and 22 of the Hire Purchase Act, 1960, have been complied with.

16. In any case coming before him under any of the preceding rules of this Order, the Master may, in lieu of giving or refusing leave to enter judgement, place the summons in the Court list for hearing.

17. In all proceedings not by the rules of this Order otherwise specially provided for, in case the party served with the summons does not appear within the time limited for appearance, upon the filing by the plaintiff of a proper affidavit of service and, where appropriate, of a statement of claim, the proceeding may proceed as if such party had appeared, subject, as to actions where an account is claimed, to the provisions of Order 37.

18. Before judgement by default shall be entered for any liquidated demand under this Order an affidavit shall be filed specifying the sum then actually due.

19. If, in any case in which a plaintiff is entitled to enter final judgement in the Central Office under any of the preceding rules of this Order, the plaintiff claims interest on the whole or any part of the sum of money for which he is entitled to enter such judgement

between the date on which the cause of action accrued and the date of judgement under section 22 of the Courts Act, 1981, the plaintiff may apply to the Court ex parte for an order for judgement inclusive of such interest. The said application shall be supported by an affidavit sworn by the plaintiff or some other person who can positively swear to the facts specifying the sum then actually due and the facts relied on in support of the claim for interest.

The Rules of the Superior Courts

Order: 27

DEFAULT OF PLEADING.

The amendment(s) below have been made to this instrument. Click on the link(s) to view:

[No27-S.I. No. 63 Of 2004. The Rules Of The Superior Courts \(Order 27 \(Amendment\) Rules\), 2004.](#)

1. If the plaintiff, being bound to deliver a statement of claim, does not deliver the same within the time allowed for that purpose, the defendant may, at the expiration of that time, apply to the Court to dismiss the action, with costs, for want of prosecution; and on the hearing of such application the Court may order the action to be dismissed accordingly, or may make such other order on such terms as the Court shall think just.
2. Subject to the provisions of rules 15 and 16, if the plaintiff's claim be only for a debt or liquidated demand, or for the recovery of land, or for the delivery of specific goods, and the defendant does not within the time allowed for that purpose deliver a defence, the plaintiff may at the expiration of such time enter final judgement in the Central Office for the amount of such debt or liquidated demand, or that the person whose title is asserted in the statement of claim shall recover possession of the land, or for the delivery of the specific goods without giving the defendant the option of retaining such goods upon paying the value thereof, as the case may be, with costs.
3. If the plaintiff's claim be for a debt or liquidated demand, or for the recovery of land, or for the delivery of specific goods, and also for pecuniary damages or any other relief, and the defendant does not within the time allowed for that purpose deliver a defence, the plaintiff may enter final judgement as in rule 2 provided and may also apply as in rule 8 provided in respect of the said claim for pecuniary damages or other relief.
4. When in any such action as in rules 2 and 3 mentioned there are several defendants, if one of them make default as mentioned in the said rules, the plaintiff may enter final judgement against the defendant so making default, and issue execution upon such judgement without prejudice to his right to proceed with his action against the other defendants or against the said defendant under rule 3.
5. If the action be for recovery of land for non-payment of rent, no judgement shall be entered under this Order until an affidavit has been filed, made by the landlord, his agent, receiver, or clerk, stating that there was, at the commencement of the action, at last one year's rent due above all just and fair allowances.
6. In an action for the recovery of a holding or of lands including a holding agricultural or pastoral, or partly agricultural and partly pastoral, in its character, for non-payment of rent no judgement shall be entered under this Order until an affidavit has been filed made by the landlord, his agent, receiver, or clerk, verifying the special indorsement on the summons. Such affidavit may be in the Form No. 6 in Appendix A, Part 1.

7. In probate actions, if any defendant make default in delivering a defence, the action may proceed, notwithstanding such default.

8. In all other actions than those in the preceding rules of this Order mentioned, if a defendant, being bound to deliver a defence, does not do so within the time allowed, the plaintiff may, subject to the provisions of rule 9, set down the action on motion for judgement and such judgement shall be given as upon the statement of claim the Court shall consider the plaintiff to be entitled to. Any damages to which the plaintiff may be entitled shall be ascertained by the Judge with a jury in case any party requires and is entitled to one, but otherwise without a jury, and, if without a jury, either by the Judge or by the Master or by the Examiner, as the Judge may direct, on evidence by affidavit or otherwise.

9. (1) Except as provided in sub rule 4 hereof, no notice of motion for judgement in default of defence in actions claiming unliquidated damages in tort or contract may be served unless the plaintiff has at least twenty-one days prior to the service of such notice written to the defendant giving him notice of his intention to serve a notice of motion for judgement and at the same time consenting to the late delivery of defence within twenty-one days of the date of the letter.

(2) If no defence is delivered within the said period the plaintiff shall be at liberty to serve a notice of motion for judgement in default of defence which shall be returnable to a date not less than fourteen clear days from the date of the service of the notice; such notice of motion to be filed not later than six days before the return date.

(3) If, not later than seven days after the service of such notice of motion for judgement, the defendant delivers a defence to the plaintiff and not later than six days before the return date lodges a copy thereof in the Central Office with a certified copy of the said notice of motion attached thereto, the said motion for judgement shall not be put in the judge's list but shall stand struck out and the defendant shall pay to the plaintiff the sum of £100 for his costs of the said motion for judgement.

(4) If, in any case, the plaintiff can establish special reasons making it necessary to serve a notice of motion for judgement in default of defence in the cases provided for by this rule with greater urgency than in accordance with the provisions herein before contained, he may apply ex-parte to the Master of the High Court for an order giving him liberty to serve a notice of motion for judgement in default of defence giving not less than four clear days notice to the defendant.

10. Where, in any such action as mentioned in rule 8, there are several defendants, then, if one of such defendants make such default as aforesaid, the plaintiff may either (if the cause of action is severable) set down the action at once on motion for judgement against the defendant so making default, or may set it down against him at the time when it is entered for trial or set down on motion for judgement against the other defendants.

11. If the plaintiff does not deliver a reply, or any party does not deliver any subsequent pleading, within the period allowed for that purpose, the pleadings shall be deemed to be closed at the expiration of that period, and all the material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue.

12. In any case in which issues arise in an action other than between plaintiff and defendant, if any party to any such issue makes default in delivering any pleading, the opposite party may

apply to the Court for such judgement, if any, as upon the pleadings he may appear to be entitled to, and the Court may order judgement to be entered accordingly, or may make such other order as may be necessary to do complete justice between the parties.

13. Before judgement by default shall be entered for any debt or liquidated demand under this Order, an affidavit shall be filed specifying the sum then actually due.

14. Any judgement by default, whether under this Order or under any other of these Rules, may be set aside by the Court upon such terms as to costs or otherwise as the Court may think fit, and where an action has been set down under rule 8, such setting down may be dealt with by the Court in the same way as if a judgement by default had been signed when the case was set down.

15. In proceedings brought by a moneylender or the assignee or legal personal representative of a moneylender for the recovery of money lent by the moneylender or any interest thereon, judgement in default of defence shall not be entered until after the expiration of twelve months from the date of issue of the summons by which the proceedings were instituted unless the leave of the Court shall have been first obtained. An application for such leave may be made by motion on notice served not less than four clear days before the hearing; and the provisions of Order 13, rule 14 (2) and (3) shall apply to such application.

16. In actions to recover a debt or liquidated demand arising under a hire-purchase agreement or credit-sale agreement (as defined by the Hire-Purchase Act, 1946) or any contract of guarantee relating to such an agreement, judgement in default of defence shall not be entered until after the expiration of twelve months from the date of issue of the summons by which the proceedings were instituted unless the leave of the Court shall have been first obtained. An application for such leave may be made by motion on notice served, not less than four clear days before the hearing, personally or by registered post addressed to the defendant at his last known place of address; and judgement shall not be entered until an affidavit shall have been filed stating that the requirements specified in section 3 or section 4 (as the case may be) of the Hire-Purchase Act, 1946, (as amended by sections 21 and 22 of the Hire-Purchase Act, 1960) have been complied with.

Circuit Court Rules

Order: 35A

S.I. No. 1 of 2006: European Enforcement Orders

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act, 1936, and section 12 of the Courts of Justice Act, 1947, by virtue of the powers conferred on us by section 66 of the Courts of Justice Act, 1924, and section 70 of the Courts of Justice Act, 1936, (as applied by section 48 of the Courts (Supplemental Provisions) Act, 1961) and section 27 of the Courts (Supplemental Provisions) Act, 1961, and of all other powers enabling us in this behalf, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the annexed Rules of Court.

Dated this 28th day of November, 2005.

(Signed):

Matthew Deery (Chairman of the Circuit Court Rules Committee)
Gerard J. Doherty
Faye Breen
Patrick Hunt
Noel Rubotham
Susan Ryan (Secretary)

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

Dated this 10th day of January, 2006.

MICHAEL MCDOWELL
Minister for Justice, Equality and Law Reform

1. These Rules, which may be cited as the Circuit Court Rules (European Enforcement Orders), 2006, shall come into operation on the 7th day of February 2006.
2. The Circuit Court Rules are hereby amended by the insertion immediately following Order 35 thereof, of the following:

“Order 35A

European Enforcement Orders

In this Order:-

“Regulation No. 805/2004” means Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 143/15 of 30 April 2004;

“Regulation No. 1869/2005” means Commission Regulation (EC) No 1869/2005 of 16 November 2005 replacing the Annexes to Regulation (EC) No 805/2004 of the European

Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 300/6 of 17 November 2005;

“domestic judgment” means any

(a) judgment of the Court for any sum of money or order (including an order made by consent, a settlement made a rule of court or a dismissal) of the Court requiring payment of any sum of money, or

(b) judgment entered in the Office pursuant to these Rules,

to which Regulation No. 805/2004 applies.

2. (1) Where a domestic judgment has been given or made by the Court, an application to certify that domestic judgment as a European Enforcement Order may be made *ex parte* to the Court at the hearing at which that domestic judgment is given or made, or if not made at that hearing, may be made *ex parte* in accordance with sub-rule (2) of this rule.

(2) In the case of any domestic judgment of the Court other than a domestic judgment certified as a European Enforcement Order at the hearing in accordance with sub-rule (1) of this rule, any application to certify that domestic judgment as a European Enforcement Order shall be made *ex parte* to the County Registrar.

3. (1) An application to certify a domestic judgment as a European Enforcement Order shall, unless the County Registrar or the Court (as the case may be) otherwise directs or permits, be grounded upon an affidavit sworn by or on behalf of the moving party in the Form No. 19A of the Schedule of Forms annexed hereto or incorporating the matters in paragraphs 2 to 5 of that Form.

(2) A certificate issued on foot of an application pursuant to Article 6(1) of Regulation No. 805/2004 shall be in the form in Annex I to Regulation No. 1869/2005.

4. (1) Where a judgment is given or order or ruling is made that a domestic judgment which has been certified as a European Enforcement Order has ceased to be enforceable or its enforceability is or has been suspended or limited, an application under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of that domestic judgment may be made by either party to the proceedings in which the domestic judgment was given *ex parte* to the Court at the hearing at which the later judgment is given or order or ruling is made.

(2) If not made at the hearing referred to in sub-rule (1), an application to the Court under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of a domestic judgment may be made in accordance with rule 6.

(3) A certificate issued on foot of an application pursuant to Article 6(2) of Regulation No. 805/2004 shall be in the form in Annex IV to Regulation No. 1869/2005.

5. (1) Where, on any appeal to the Court, a judgment is given, or order, ruling or decision is made, in respect of a domestic judgment which has been certified as a European

Enforcement Order, an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate may be made by either party to the said appeal *ex parte* to the Court at the hearing of the said appeal, or on the delivery of the judgment on the said appeal.

(2) If not made on the occasion referred to in sub-rule (1), an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate may be made in accordance with rule 6.

(3) A replacement certificate issued on foot of an application pursuant to Article 6(3) of Regulation No. 805/2004 shall be in the form in Annex V to Regulation No. 1869/2005.

6. Unless made in accordance with rule 4(1) or (as the case may be) rule 5(1) of this Order, an application under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of a domestic judgment or an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate shall be made by motion to the County Registrar on notice to the judgment creditor or judgment debtor, grounded, where necessary, upon an affidavit sworn by or on behalf of the moving party and the provisions of Order 64 of these Rules shall apply to any such motion. There shall be exhibited to any grounding affidavit in any such application a completed draft of the form of certificate sought, and the contents of such draft certificate shall be verified in the grounding affidavit.

7. (1) An application under Article 10(1) of Regulation No. 805/2004 for the rectification or the withdrawal of a European Enforcement Order certificate shall be made to the Court which certified the domestic judgment concerned as a European Enforcement Order or, where the County Registrar so certified the domestic judgment, to the County Registrar. Before making such application, the moving party shall complete the form of application in Annex VI to Regulation No. 1869/2005 and shall deliver such completed form of application to the Office which shall assign a return date to such application. The moving party shall serve a copy of such completed form of application on the judgment creditor or (as the case may be) the judgment debtor, together with a copy of any affidavit sworn by or on behalf of the moving party to ground the application. Where rectification is sought, there shall be exhibited to any grounding affidavit in any such application a copy of the form of European Enforcement Order certificate previously issued, marked with the rectification sought, and the contents of such marked certificate shall be verified in the grounding affidavit. A notice of application in the said form shall be treated for all purposes as if it were a motion to the Court or (as the case may be) to the County Registrar and the provisions of Order 64 of these Rules shall apply to any such application.

(2) Where, on any application under this rule, it is determined that the European Enforcement Order certificate in respect of the domestic judgment concerned ought be rectified or withdrawn, the person on whose application the domestic judgment concerned was certified as a European Enforcement Order shall within seven days of such determination lodge the original European Enforcement Order certificate in respect of the domestic judgment concerned in the Office. In the case of rectification, the County Registrar shall rectify such certificate, re-sign, re-seal and subject to any direction made in that regard, re-issue such rectified certificate to the person on whose application the domestic judgment concerned was certified as a European Enforcement Order. In the case of withdrawal, the County Registrar shall cancel such certificate.

(3) Where the person on whose application the domestic judgment concerned was certified as a European Enforcement Order fails in accordance with sub-rule (2) to lodge the original European Enforcement Order certificate within seven days of a determination, the County Registrar shall, at the request of the applicant, provide to the applicant a certificate under the seal of the Court certifying the fact that the European Enforcement Order certificate has been rectified or (as the case may be) withdrawn. Such certificate shall be in the in the Form No. 19B of the Schedule of Forms annexed hereto.

8. (1) The following certificates may be signed and sealed by the County Registrar:

(i) a European Enforcement Order certificate - judgment (Annex I to Regulation No. 1869/2005) (including for the avoidance of doubt, such certificate as rectified pursuant to Article 10(1) of Regulation No. 805/2004 and in accordance with rule 7(2) of this Order);

(ii) a certificate of lack or limitation of enforceability, (Annex IV to Regulation No. 1869/2005) pursuant to Article 6(2) of Regulation No. 805/2004;

(iii) a European Enforcement Order replacement certificate, (Annex V to Regulation No. 1869/2005) pursuant to Article 6(3) of Regulation No. 805/2004;

(iv) any certificate which seems necessary in accordance with rule 7(3) of this Order.

(2) The County Registrar may at the request of the applicant therefor, issue a duplicate of any of the certificates referred to in sub-rule (1).

(3) The County Registrar or the Court may direct the applicant to lodge a draft of the completed form of a certificate, where such draft certificate has not already been exhibited to an affidavit grounding the application for the certificate.

3. The Circuit Court Rules are hereby amended by the substitution for rule 7 of Order 18 thereof, of the following:

“9. Save in the case of a European Enforcement Order certificate issued by the County Registrar in accordance with Order 35A, any party dissatisfied with any certificate, ruling or decision of the County Registrar, may, within ten days from the date of such certificate, ruling or decision, apply to the Judge by motion on notice to review such certificate, ruling or decision, and the Judge may thereupon make such order as he shall think fit.”

4. Forms [19A](#) and [19B](#) contained in the Schedule hereto shall be inserted in the Schedule to the Circuit Court Rules, immediately after Form 19.

5. These Rules shall come into operation on the day of 2006.

Circuit Court Rules

Amendment to: Order 18

S.I. No. 1 of 2006: Circuit Court Rules (European Enforcement Orders) 2006

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act, 1936, and section 12 of the Courts of Justice Act, 1947, by virtue of the powers conferred on us by section 66 of the Courts of Justice Act, 1924, and section 70 of the Courts of Justice Act, 1936, (as applied by section 48 of the Courts (Supplemental Provisions) Act, 1961) and section 27 of the Courts (Supplemental Provisions) Act, 1961, and of all other powers enabling us in this behalf, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the annexed Rules of Court.

Dated this 28th day of November, 2005.

(Signed):

Matthew Deery (Chairman of the Circuit Court Rules Committee)

Gerard J. Doherty

Faye Breen

Patrick Hunt

Noel Rubotham

Susan Ryan (Secretary)

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

Dated this 10th day of January, 2006.

MICHAEL MCDOWELL

Minister for Justice, Equality and Law Reform

1. These Rules, which may be cited as the Circuit Court Rules (European Enforcement Orders), 2006, shall come into operation on the 7th day of February 2006.

.....

3. The Circuit Court Rules are hereby amended by the substitution for rule 7 of Order 18 thereof, of the following:

“9. Save in the case of a European Enforcement Order certificate issued by the County Registrar in accordance with Order 35A, any party dissatisfied with any certificate, ruling or decision of the County Registrar, may, within ten days from the date of such certificate, ruling or decision, apply to the Judge by motion on notice to review such certificate, ruling or decision, and the Judge may thereupon make such order as he shall think fit.”

.....

5. These Rules shall come into operation on the day of 2006.

Circuit Court Rules

Order: 30

Review of judgments

1. Any party against whom a judgment in default of appearance or defence has been given may, not later than ten days after he has knowledge thereof, serve a notice of motion in accordance with Form 13 of the Schedule of Forms annexed hereto to vary or set aside the said judgment, but service of the notice of motion shall not operate as a stay of proceedings in the action save with the leave of the Court and upon such directions as to the Court shall seem appropriate. In cases of urgency, applications for a stay may be made in accordance with the terms of Order 1 rule 5 of these Rules.
2. Every such notice shall set forth clearly and briefly the reasons why the party applying did not enter an appearance or did not deliver a defence, as the case may be, the nature of the fraud, misrepresentation, surprise or mistake relied upon, and the grounds of defence to the action in which the said judgment was given.
3. Save where the Court shall otherwise direct, no such motion shall be heard until the party applying has complied with the directions of the Court (if any) including any directions relating to the lodgment in Court of such sums, either in respect of the judgment debt itself, the costs awarded against him by such judgment, and such further sum, if any, as security for costs of the motion as the Judge shall consider just.
4. The Judge may, on the hearing of any such motion, vary or set aside the judgment in question, upon such terms as to costs or otherwise, including lodgment in Court of the amount of such judgment, or any part thereof, and may give such directions and such extensions of time as may be necessary in regard to the further conduct of the action, proceeding or matter. The Judge may also make such order as he may consider just in regard to moneys paid into Court by the defendant.

District Court Rules

Order: 53B

European Enforcement Orders - S.I. No. 2 of 2006

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 17 of the Interpretation Act 1937 [as applied by section 48 of the Courts (Supplemental Provisions) Act 1961] and section 34 of the Courts (Supplemental Provisions) Act 1961, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the following rules of court:-

1. These rules may be cited as the District Court (European Enforcement Orders) Rules 2006.
2. These rules shall come into operation on the 7th day of February 2006 and shall be read together with all other District Court rules for the time being in force.
3. The District Court Rules 1997 (S.I. No. 93 of 1997) shall be amended by the insertion immediately following Order 53A thereof, of the following:

“Order 53B

European Enforcement Orders

1. In this Order:-

“domestic judgment” means any judgment or decree of the Court for the recovery of any sum of money, or any order (including an order made by consent) of the Court or dismissal by the Court requiring the payment of any sum of money, to which Regulation No. 805/2004 applies;

“Regulation No. 805/2004” means Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 143/15 of 30 April 2004;

“Regulation No. 1869/2005” means Commission Regulation (EC) No 1869/2005 replacing the Annexes to Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims, OJ L 300/6 of 16 November 2005;

“the Regulations of 2005” means the European Communities (European Enforcement Order) Regulations 2005 (S.I. No. 648 of 2005).

2. Subject to Regulation No. 805/2004 and to the Regulations of 2005, the provisions of rules 1 to 14 inclusive of Order 53 of these Rules, insofar as they may be applied to a judgment of the High Court, may be applied to a judgment, authentic instrument or court settlement which has been certified as a European Enforcement Order in the Member State of origin, and any reference in rules 1 to 14 inclusive of Order 53 to a “judgment” shall,

where the context so admits, include a reference to a judgment, authentic instrument or court settlement which has been certified as a European Enforcement Order in any Member State of origin. In such a case, any relevant Form in Schedule C to these Rules which contains a reference to a judgment, order or decree may be adapted to refer to such European Enforcement Order.

3. Where an application is made by a creditor for enforcement in accordance with rule 3 of Order 53 of these Rules, in respect of a judgment which has been certified as a European Enforcement Order in a Member State of origin other than the State, such creditor shall, in addition to lodging with the Clerk the summons in duplicate and statutory declaration referred to in rule 3 of Order 53 of these Rules, provide to the Clerk the documents referred to in Article 20(2) of Regulation No. 805/2004.

4. Where a domestic judgment has been given or made, an application to certify that domestic judgment as a European Enforcement Order may be made ex parte to the Court at the hearing at which that domestic judgment is given or made, or if not made at such hearing, shall be made ex parte to the Court on another occasion.

5. (1) An application to certify a domestic judgment as a European Enforcement Order shall, unless the Court otherwise directs or permits, be grounded upon an affidavit sworn by or on behalf of the moving party. The affidavit shall be in the Form No. 53B.1, Schedule C or incorporating the matters in paragraphs 2 to 5 of that Form.

(2) A certificate given on foot of an application pursuant to Article 6(1) of Regulation No. 805/2004 shall be in the Form in Annex I to Regulation No. 1869/2005, which is reproduced at Form No. 53B.2, Schedule C.

6. (1) Where a domestic judgment, which has been certified as a European Enforcement Order, has ceased to be enforceable or its enforceability is or has been suspended or limited, an application under Article 6(2) of Regulation No. 805/2004 for the issue of a certificate indicating the lack or limitation of enforceability of that domestic judgment may be made ex parte to the Court by any party to the proceedings.

(2) A certificate indicating the lack or limitation of enforceability of a domestic judgment given on foot of an application pursuant to Article 6(2) of Regulation No. 805/2004 shall be in the Form in Annex IV to Regulation No. 1869/2005, which is reproduced at Form No. 53B.3, Schedule C.

7. (1) Where the Court gives a judgment or makes an order following a challenge to a domestic judgment, which has been certified as a European Enforcement Order, an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate may be made ex parte to the Court by any party to the proceedings at the hearing at which that judgment is given or order is made.

(2) A replacement certificate given on foot of an application pursuant to Article 6(3) of Regulation No. 805/2004 shall be in the Form in Annex V to Regulation No. 1869/2005, which is reproduced at Form No. 53B.4, Schedule C.

8. (1) Unless made in accordance with rule 6(1) or (as the case may be) rule 7(1) of this Order, an application under Article 6(2) of Regulation No. 805/2004 for the issue of a

certificate indicating the lack or limitation of enforceability of a domestic judgment or an application under Article 6(3) of Regulation No. 805/2004 for the issue of a replacement certificate shall be made by application to the Court in the Form No. 53B.5, Schedule C on notice to the judgment creditor or judgment debtor (as the case may be), grounded, where necessary, upon an affidavit sworn by or on behalf of the moving party. There shall be exhibited to any grounding affidavit in any such application a completed draft of the form of European Enforcement Order certificate sought, and the contents of such draft certificate shall be verified in the grounding affidavit.

(2) A copy of the notice of application and a copy of any affidavit sworn by or on behalf of the moving party and intended to be used in the application shall be delivered to the judgment creditor or judgment debtor (as the case may be) not later than seven days before the date fixed for the hearing of the application. The original of such notice and of any affidavit intended to be used in the application shall be lodged with the Clerk not later than four days before the date fixed for the hearing of the application.

9. (1) An application under Article 10(1) of Regulation No. 805/2004 for the rectification or the withdrawal of a European Enforcement Order certificate shall be made to the Court which certified the domestic judgment concerned as a European Enforcement Order. Before making such application, the moving party shall complete the Form of application in Annex VI to Regulation No. 1869/2005, which is reproduced at Form No. 53B.6, Schedule C, and shall deliver such completed form of application to the Clerk. The moving party shall serve a copy of such completed form of application on the judgment creditor or (as the case may be) the judgment debtor, together with a copy of any affidavit sworn by or on behalf of the moving party and intended to be used in the application. Where rectification is sought, there shall be exhibited to any grounding affidavit in any such application a copy of the form of European Enforcement Order certificate previously issued, marked with the rectification sought, and the contents of such marked certificate shall be verified in the grounding affidavit.

(2) Where, on any application under this rule, it is determined that the European Enforcement Order certificate in respect of the domestic judgment concerned ought be rectified or withdrawn, the person on whose application the domestic judgment concerned was certified as a European Enforcement Order shall within seven days of such determination lodge the original European Enforcement Order certificate in respect of the domestic judgment concerned with the Clerk. In the case of rectification, the person who applied for rectification shall lodge with the Clerk a draft rectified certificate. The Clerk shall, in such case, produce the rectified certificate to the Judge to be re-signed, and subject to any direction made by the Judge in that regard, issue the rectified certificate to the person on whose application the domestic judgment concerned was certified as a European Enforcement Order. In the case of withdrawal, the Clerk shall produce the certificate to the Judge to be cancelled.

(3) Where the person on whose application the domestic judgment concerned was certified as a European Enforcement Order fails in accordance with sub-rule (2) of this rule to lodge the original European Enforcement Order certificate in respect of the domestic judgment concerned with the Clerk within seven days of a determination, the Clerk shall, at the request of the applicant, provide to the applicant a certificate in the Form 53B.7, Schedule C, signed by the Judge certifying the fact that the European Enforcement Order certificate has been rectified or (as the case may be) withdrawn.

10. (1) The Clerk may at the request of the applicant therefor, present for signature by the Judge and issue to such applicant a duplicate of any certificate referred to in this Order, and any such duplicate shall be marked as a duplicate.

(2) The applicant shall in every case lodge with the Clerk a draft of the completed form of the certificate for which application has been made, where such draft certificate has not already been exhibited to an affidavit grounding the application for the certificate.”

4. The Forms in the Schedule hereto shall be added to the Forms in Schedule C to the District Court Rules 1997 (S.I. No. 93 of 1997), immediately following Form 53A.4.

Given this 28th day of November 2005

Miriam Malone Chairperson
Uinsin Mac Gruairc
Mary C Devins
Thomas E O'Donnell
David Kelly
Noel A Doherty
Elizabeth Hughes Secretary

I concur in the making of the foregoing rules
Dated this 10th day of January 2006

Michael McDowell
Minister for Justice, Equality and Law Reform

District Court Rules

Amendment to: Schedule C

S.I. No. 2 of 2006: District Court (European Enforcement Orders) Rules 2006 - Forms 53B.1 to 53B.7

Schedule C

O. 53B, r. 5(1)

53B.1

AN CHUIRT DUICHE THE DISTRICT COURT

District Court Area of District No.

Between.....Plaintiff

And.....Defendant

AFFIDAVIT

I, AB,of , the (*plaintiff or state other capacity*) in the above-entitled proceedings, aged eighteen years and upwards MAKE OATH and say as follows:

1. (State deponent's authority). I make this affidavit from facts within my own knowledge save where otherwise appears and where so otherwise appears, I believe the same to be true.

2. I beg to refer to the proceedings had herein and to the [judgment/decree/dismiss/order] of the Court made on theday of20..... where [judgment was given for the plaintiff / the defendant was ordered to pay the plaintiff] the sum of €..... . I say that the said [judgment/decree/dismiss/order] amounts to a judgment on an uncontested claim, within the meaning of Regulation (EC) No 805/2004.

3. The claim herein was for payment of a specific sum of money which had fallen due and that the claim was uncontested within the meaning of Article 3 of Regulation (EC) No 805/2004 because:

[state which of the circumstances set out in Article 3 applies]

4. The [judgment / order] may be certified as a European Enforcement Order under Article 6 of Regulation (EC) No 805/2004 because:

*each of the conditions set out in paragraphs (a), (b), (c) and (where appropriate) (d) of paragraph 1 of Article 6 of the said Regulation is met in respect of the [judgment / order] or

**(where any of the procedural requirements set out in any one or more of Articles 13 to 17 inclusive of Regulation (EC) No 805/2004 is not met)* each of the conditions set out in paragraphs (a), (b) and (where appropriate) (d) of paragraph 1 of Article 6 of the said

Regulation is met in respect of the [judgment / order] and, [*state the basis upon which under Article 18(1) or Article 18(2) of the Regulation any non-compliance was cured*]

5. I beg to refer to a completed draft European Enforcement Order certificate in the form in Annex I to Regulation No. 1869/2005 upon which marked "A" I have signed my name prior to the swearing hereof and I say that the contents of the said draft certificate as completed are true. I accordingly pray that the [judgment / order] be certified as a European Enforcement Order in accordance with Article 6 of the said Regulation No. 805/2004 in the form of the draft exhibited hereto.

SWORN by on 20

at

in the County of

before me a Commissioner for Oaths/Practising Solicitor and I know the Deponent.

Commissioner for Oaths/Practising

Solicitor

*delete words inapplicable

Schedule C

O. 53B, r. 5(2)

53B.2

Regulation (EC) No 1869/2005, Annex I

EUROPEAN ENFORCEMENT ORDER CERTIFICATE – JUDGMENT

1. Member State of origin:

Belgium Czech Republic Germany Estonia Greece Spain France
Ireland Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta
Netherlands Austria Poland Portugal Slovakia Slovenia Finland
Sweden United Kingdom

2. Court/Tribunal issuing the certificate

2.1 Name: District Court

2.2 Address:

2.3 Tel./fax/e-mail:

3. If different, Court/Tribunal giving the judgment

3.1 Name:

3.2 Address:

3.3 Tel./fax/e-mail:

4. Judgment

4.1 Date:

4.2 Reference number:

4.3 The parties

4.3.1 Name and address of creditor(s):

4.3.2 Name and address of debtor(s):

5. Monetary claim as certified

5.1 Principal Amount:

5.1.1 Currency

Euro Cyprus pound Czech koruna Estonian Kroon Pounds Sterling
Hungarian forint Lithuanian litas Latvian lats Maltese lira Polish zloty
Swedish kronor Slovak koruna Slovenian tolar Other (explain)

5.1.2 If the claim is for periodical payments

5.1.2.1 Amount of each instalment:

5.1.2.2 Due date of first instalment:

5.1.2.3 Due dates of following instalments

Weekly monthly other (explain)

5.1.2.4 Period of the claim

5.1.2.4.1 Currently indefinite or

5.1.2.4.2 Due date of last instalment:

5.2 Interest

5.2.1 Interest rate

5.2.1.1 ...% or

A. 5.2.1.2 ...% above the base rate of the ECB (1)

5.2.1.3 Other (explain)

5.2.2 Interest to be collected as from:

5.3 Amount of reimbursable costs if specified in the judgment

6. Judgment is enforceable in the Member State of origin

7. Judgment is still subject to the possibility of a challenge

Yes No

8. Judgment is on an uncontested claim under Article 3(1)

9. Judgment is in compliance with Article 6(1) (b)

10. The judgment concerns matters relating to consumer contracts

Yes No

10.1 If yes:

The debtor is the consumer

Yes No

10.2 If yes:

The debtor is domiciled in the Member State of origin (within the meaning of Article 59 of Regulation (EC) 44/2001

11. Service of the document instituting the proceedings under Chapter III, where applicable

Yes No

11.1 Service was effected in compliance with Article 13

or service was effected in compliance with Article 14

or it is proved in accordance with Article 18(2) that the debtor has received the document

11.2 Due information

The debtor was informed in compliance with Articles 16 and 17

12. Service of summons, where applicable

Yes No

12.1 Service was effected in compliance with Article 13

Or service was effected in compliance with Article 14

Or it is proved in accordance with Article 18(2) that the debtor has received the summons

12.2 Due information

The debtor was informed in compliance with Article 17

13. Cure of non-compliance with procedural minimum standards pursuant to Article 18(1)

13.1 Service of the judgment was effected in compliance with Article 13

or service of the judgment was effected in compliance with Article 14

or it is proved in accordance with Article 18(2) that the debtor has received the judgment

13.2 Due information

The debtor was informed in compliance with Article 18(1)(b)

13.3 It was possible for the debtor to challenge the judgment

Yes No

13.4 The debtor failed to challenge the judgment in compliance with the relevant procedural requirements

Yes No

Done aton theday of200...

.....

Signature

Judge of the District Court

[1. Interest rate applied by the European Central Bank to its main refinancing operations]

Schedule C

O. 53B, r. 6(2)

53B.3

Regulation (EC) No 1869/2005, Annex IV

**CERTIFICATE OF LACK OR LIMITATION OF ENFORCEABILITY
(Article 6(2))**

1. Member State of origin:

Belgium Czech Republic Germany Estonia Greece Spain France Ireland Italy
Cyprus Latvia Lithuania Luxembourg Hungary Malta Netherlands Austria
Poland Portugal Slovakia Slovenia Finland Sweden United Kingdom

2. Court/Authority issuing the certificate

2.1 Name: District Court

2.2 Address:

2.3 Tel./fax/e-mail:

3. If different, Court/Authority issuing the Judgment

3.1 Name:

3.2 Address:

3.3 Tel./fax/e-mail:

4. Judgment

4.1 Date:

4.2 Reference number:

4.3 The parties

4.3.1 Name and address of creditor(s):

4.3.2 Name and address of debtor(s):

5. This judgment was certified as a European Enforcement Order but

5.1 the judgment is no longer enforceable

5.2 Enforcement is temporarily

5.2.1 stayed

5.2.2 limited to protective measures

5.2.3 conditional upon the provision of a security which is still outstanding

5.2.3.1 Amount of the security:

5.2.3.2 Currency

Euro Cyprus pound Czech koruna Estonian Kroon Pounds Sterling
Hungarian forint Lithuanian litas Latvian lats Maltese lira Polish zloty
Swedish kronor Slovak koruna Slovenian tolar Other (explain)

5.2.4 Other (explain)

Done aton theday of200...

.....

Signature

Judge of the District Court

Schedule C

O. 53B, r. 7(2)

53B.4

Regulation (EC) No 1869/2005, Annex V

**EUROPEAN ENFORCEMENT ORDER REPLACEMENT CERTIFICATE
FOLLOWING A CHALLENGE
(Article 6(3))**

A. The following judgment certified as a European Enforcement Order was challenged

1. Member State of origin:

Belgium Czech Republic Germany Estonia Greece Spain France
Ireland Italy Cyprus Latvia Lithuania Luxembourg Hungary Malta
Netherlands Austria Poland Portugal Slovakia Slovenia Finland
Sweden United Kingdom

2. Court/Authority issuing the certificate

2.1 Name: District Court

2.2 Address:

2.3 Tel./fax/e-mail:

3. If different, Court/ Authority giving the judgment

3.1 Name:

3.2 Address:

3.3 Tel./fax/e-mail:

4. Judgment

4.1 Date:

4.2 Reference number:

4.3 The parties

4.3.1 Name and address of creditor(s):

4.3.2 Name and address of debtor(s):

B. Upon that challenge the following decision has been handed down and is hereby certified as European Enforcement Order replacing the original European Enforcement Order.

1. Court

1.1 Name: District Court

1.2 Address:

1.3 Tel./fax/e-mail:

2. Decision

2.1 Date:

2.2 Reference number:

3. Monetary claim as certified

3.1 Principal Amount

3.1.1 Currency

Euro Cyprus pound Czech koruna Estonian Kroon Pounds Sterling
Hungarian forint Lithuanian litas Latvian lats Maltese lira Polish zloty
Swedish kronor Slovak koruna Slovenian tolar Other (explain)

3.1.2 If the claim is for periodic payments

3.1.2.1 Amount of each instalment:

3.1.2.2 Due date of first instalment:

3.1.2.3 Due dates of following instalments

Weekly monthly other (explain)

3.1.2.4 Period of the claim

3.1.2.4.2 Currently indefinite or

3.2 Interest

3.2.1 Interest rate

3.2.1.1 ...% or

3.2.1.2% above the base rate of the ECB (Interest rate applied by the European Central Bank to its main refinancing operations.)

3.2.1.3 Other (explain)

3.2.2 Interest to be collected as from:

3.3 Amount of reimbursable costs if specified in the decision:

4. Decision is enforceable in the Member State of origin

5. Decision is still subject to the possibility of a further appeal

Yes No

6. Decision is in compliance with Article 6(1)(b)

7. The decision concerns matters relating to consumer contracts

Yes No

7.1 If yes:

The debtor is the consumer

Yes No

7.2 If yes:

The debtor is domiciled in the Member State of origin in the meaning of Article 59 of Regulation (EC) No 44/2001

8. At the time of the decision following the challenge, the claim is uncontested within the meaning of the Article 3(1)(b) or (c)

Yes No

If yes:

8.1 Service of the document instituting the challenge.

Did the creditor lodge the challenge?

Yes No

If yes:

8.1.1 Service was effected in compliance with Article 13

or the service was effected in compliance with Article 14

or it is proved in accordance with Article 18(2) that the debtor has received the document

8.1.2 Due information

The debtor was informed in compliance with Articles 16 and 17

8.2 Service of summons, where applicable

Yes No

If yes:

8.2.1 Service was effected in compliance with Article 13

or service was effected in compliance with Article

or it is proved in accordance with Article 18(2) that the debtor has received the summons

8.2.2 Due information

The debtor was informed in compliance with Article 17

8.3 Cure of non-compliance with procedural minimum standards pursuant to Article 18(1)

8.3.1 Service of the decision was effected in compliance with Article 13

or service of the decision was effected in compliance with Article 14

or it is proved in accordance with Article 18(2) that the debtor has received the decision

8.3.2 Due information

The debtor was informed in compliance with Article 18(1)(b)

Done aton theday of200...

.....

Signature

Judge of the District Court

**53B.5
Schedule C**

O.53B, r. 8(1)

AN CHUIRT DUICHE THE DISTRICT COURT

District Court Area of District No.

Between.....Creditor

And.....Debtor

In the matter of Regulation (EC) No 805/2004

NOTICE OF APPLICATION FOR CERTIFICATE INDICATING LACK OR LIMITATION
OF ENFORCEABILITY OF A JUDGMENT CERTIFIED AS A EUROPEAN
ENFORCEMENT ORDER/ REPLACEMENT CERTIFICATE

WHEREAS by [judgment/decreed/dismiss/order] of the Court made on theday of
.....20..... it was adjudged and ordered that.....

AND WHEREAS the Court certified the said [judgment/decreed/dismiss/order] as a European
Enforcement Order in accordance with Article 6(1) of the above-mentioned Regulation on the
.....day of20.....

TAKE NOTICE that the above-named creditor /debtor will apply to the District Court sitting at
.....on theday of.....20..... at.....a.m./p.m., for

*the issue of a certificate in accordance with Article 6(2) of the above-mentioned Regulation
indicating the lack or limitation of enforceability of the judgment certified as a European
Enforcement Order

*the issue of a replacement European Enforcement Order certificate in accordance with Article
6(3) of the above-mentioned Regulation

On the following grounds-

Dated this day of 20

Signed.....

Applicant / Solicitor for the Applicant

To: District Court Clerk at

And to:

*Delete words inapplicable

Schedule C

O. 53B, r. 9(1)

53B.6

Regulation (EC) No 1869/2005, Annex VI

**APPLICATION FOR RECTIFICATION OR WITHDRAWAL OF THE EUROPEAN
ENFORCEMENT ORDER CERTIFICATE (Article 10(3))**

1. Member State of origin: Belgium Czech Republic Germany Estonia Greece

Spain France Ireland Italy Cyprus Latvia Lithuania Luxembourg Hungary
Malta Netherlands Austria Poland Portugal Slovakia Slovenia Finland
Sweden United Kingdom

2. Court/Authority issuing the certificate

2.1 Name: District Court

2.2 Address:

2.3 Tel./fax/e-mail:

3. If different, Court/Authority issuing the judgment

3.1 Name:

3.2 Address:

3.3 Tel./fax/e-mail:

4. Judgment

4.1 Date:

4.2 Reference number:

4.3 The parties

4.3.1 Name and address of creditor(s):

4.3.2 Name and address of debtor(s):

HAS TO BE

5. RECTIFIED as due to a material error there is the following discrepancy between the European Enforcement Order certificate and the underlying judgment (explain)

6. WITHDRAWN because:

6.1 the certified judgment was related to a consumer contract but was given in a Member State where the consumer is not domiciled within the meaning of Article 59 of Regulation (EC) No 44/2001

6.2 the European Enforcement Order certificate was clearly wrongly granted for another reason (explain)

Done atdate.....

.....

Signature

(Applicant/Solicitor for the applicant)

Schedule C

O. 53B, r. 9(3)

53B.7

AN CHUIRT DUICHE THE DISTRICT COURT

District Court Area of District No.

Between.....Creditor

And.....Debtor

Regulation (EC) No 805/2004

**CERTIFICATE OF *RECTIFICATION / *WITHDRAWAL OF A EUROPEAN
ENFORCEMENT ORDER CERTIFICATE (Article 10(3))**

TAKE NOTICE that on application made to this Court on the....day of200....

THE FOLLOWING EUROPEAN ENFORCEMENT ORDER CERTIFICATE

1. Member State of origin: IRELAND (IE)

2. Court/Authority issuing the certificate:

2.1 Name: District Court.....

2.2 Address:

2.3 Tel/fax/e-mail:

3. If different, Court/Authority issuing the judgment:

3.1 Name: as above

3.2 Address: as above

3.3 Tel/fax/e-mail: as above

4. Judgment:

4.1 Date:

4.2 Reference number (record number):

4.3 Parties:

4.3.1 Name and address of creditor(s):

4.3.2 Name and address of debtor(s):

HAS BEEN

*5. RECTIFIED as due to a material error there is the following discrepancy between the European Enforcement Order Certificate and the underlying judgment:

*6. WITHDRAWN because:

6.1 *the certified judgment was related to a consumer contract but was given in a Member State where the consumer is not domiciled within the meaning of Article 59 of Regulation (EC) No. 44/2001

6.2 *the European Enforcement Order Certificate was clearly wrongly granted for another reason:

and the original of the said European Enforcement Order Certificate (and every duplicate thereof) has not been lodged with this Court.

Done atDistrict Court, on the.....day
of..... 200...

Signed.....

Judge of the District Court

*delete words inapplicable

District Court Rules

Order: 45

Judgment

The amendment(s) below have been made to this instrument. Click on the link(s) to view:

[No45-S.I. No. 257 Of 2005: District Court \(Personal Injuries\) Rules 2005](#)

[Definitions]

1. In this Order—

"The Act of 1988" means the Jurisdiction of Courts and Enforcement of Judgments (European Communities) Act 1988 (No. 3 of 1988).

"the Convention" has the meaning assigned to it in the Act of 1988.

"The Hague Convention" means the Hague Convention of 15th November, 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.

[Where no notice of intention to defend lodged]

2. (1) Where the claim in civil proceedings is in respect of a debt or liquidated money demand and the defendant fails to give notice of intention to defend within the time limited by these Rules, the plaintiff may in default of such notice apply for judgment, by lodging with or sending by post to the Clerk:—

(a) An affidavit of debt (Form 45.1, 45.2, 45.3, 45.4, 45.5 or 45.6 Schedule C as the case may be) verifying the plaintiff's claim and made by the plaintiff or by some person on his or her behalf who can swear positively to the facts;

[Statutory certificates]

(b) Where the claim is by a Minister of a Government Department, or the Land Commission, or the Commissioners of Public Works or such other bodies or persons who are by statute so entitled, the same may be verified and the sum then actually due may be proved by any certificate under seal which is by statute made evidence of the matters therein certified instead of by affidavit as is provided in paragraph (a) hereof.

(c) Where a defendant has executed a consent which has been duly witnessed, an affidavit (Form 45.7 or 45.8 Schedule C) verifying such consent in lieu of an affidavit of debt.

(d) A completed form of decree (Form 45.9, 45.10, 45.11, 45.12, 45.13, 45.14 or 45.15 Schedule C as the case may be) signed by the plaintiff or solicitor for the Plaintiff.

(2) The affidavit verifying the plaintiff's claim specified in paragraph (1) (a) or paragraph (1) (c) hereof shall be sworn and the certificate specified in paragraph (1) (b) shall be given within the period of one month next preceding the date of application for judgment, otherwise the same shall not be sufficient.

(3) Where the plaintiff's request for judgment includes a claim in respect of value-added tax, the affidavit shall contain averments as to whether or not value-added tax is payable by the plaintiff on his or her legal costs, and if payable whether or not the sum so payable is recoverable by the plaintiff from the Revenue Commissioners.

(4) Subject to the provisions of paragraph (5) hereof, the Judge shall thereupon sign a decree for the amount of the debt then due and the costs thereof (including the amount in respect of any

value-added tax payable on such costs where he or she is satisfied that such tax is so payable and is not otherwise recoverable) together with all actual and necessary outlay, if any.

[Refusal to enter judgment - Clerk to notify]

(5) The Judge may in any case refuse to enter judgment and in any such case he or she, shall direct that the case shall be listed for hearing at the first available opportunity, in which event the Clerk shall give to the plaintiff or solicitor for the plaintiff at least seven days notice by ordinary post of the place, date and time of such hearing.

[Review of default judgment]

3. (1) A party against whom any decree may have been obtained in accordance with the provisions of rule 2 of this Order may apply by notice of motion (Form 45.16 Schedule C) to the Court in the court area in which the decree was obtained for an order to vary or set aside the said decree on the ground that the same was obtained by fraud, misrepresentation, surprise, mistake or other sufficient ground, but service of the notice of motion shall not operate as a stay of proceedings in the action unless the defendant lodges with the Clerk together with the original of the notice of motion the amount for which the decree was made and costs.

[Mode and time for service of notice]

(2) Such notice of motion shall be served either personally or by post upon the plaintiff or solicitor for the plaintiff within ten clear days from the date upon which the making of such decree shall have come to the knowledge of the defendant.

(3) The Court may declare sufficient the service of such notice actually effected.

(4) Such notice shall be lodged with the Clerk four days at least before the date fixed for the hearing of the motion and shall set forth clearly and briefly the reasons why the party applying did not give notice of intention to defend the civil summons, the nature of the fraud, misrepresentation, surprise, mistake or other sufficient ground relied upon, and setting out the grounds of defence to the action in which the said decree was made.

[Power of Court on hearing application]

(5) The Court may, on the hearing of any such motion, grant or refuse the application to vary or set aside the decree upon terms as to costs or otherwise including lodgment with the Clerk of the amount of such decree or any part thereof, and may give such directions and such extensions of time as may be necessary in regard to the further conduct of the action.

[Costs in discretion of Court]

(6) The costs of any such motion, if awarded by the Court, shall be such an amount as the Court may consider reasonable.

[Where the Conventions apply]

4. Notwithstanding the provisions of this Order, where the proceedings are proceedings to which the Conventions apply and the defendant is domiciled in a Contracting State other than the State

(1) the civil summons (with any necessary modifications) or, as the case may be, notice thereof in the Form 62.1 Schedule C (with two notices of intention to defend attached thereto) and a certificate in the Form 62.2 Schedule C shall be served on the defendant in accordance with the provisions of the Hague Convention and Order 11 of these Rules.

(2) The provisions contained in Order 62 rules 4 and 5 of these Rules shall apply to proceedings to which this rule relates.

[Where no notice to defend is received]

5. (1) If, in the proceedings under Rule 4 hereof, no notice of intention to defend is received by the clerk from the defendant, the Judge shall, in accordance with Rule 2 hereof, direct that the case be listed for hearing in Court and the plaintiff or his solicitor be notified. At the hearing it shall be necessary for the plaintiff to show to the satisfaction of the Court that, to the best of his belief

[Necessary proofs]

- (a) each claim made in the civil summons is one which by virtue of the provisions of the Conventions, the Court has jurisdiction to hear and determine,
- (b) no proceedings involving the same cause of action are pending between the parties in another Contracting State,
- (c) the defendant was duly served with the document instituting the proceedings or notice thereof, and
- (d) the defendant has been able to receive the said document or notice in sufficient time to enable him to arrange for his defence, or all necessary steps have been taken to this end, as required by Article 20 of the 1968 Convention.

[The Hague Convention]

(2) Where, however the document instituting the proceedings (or notice thereof) had to be transmitted abroad for service in accordance with the Hague Convention, the provisions of paragraphs 1 (c) and 1 (d) of this rule shall not apply. The other paragraphs of this rule shall be subject to rule 6 hereof.

[Service of documents]

6. (1) Where any document for use in proceedings to which this Order relates is to be served upon a person outside the jurisdiction and the service is to be effected in a State which is a party to the Hague Convention, the provisions (including Articles 8 to 11) of the convention and Order 62 of these Rules shall apply in every such case.

[Procedure on non-appearance of defendant]

- (2) Where the document instituting the proceedings (or notice thereof) was transmitted abroad for service under the provisions of The Hague Convention and the defendant has not appeared or given notice to defend, judgment shall not be given until the provisions of Article 15 of that Convention as set out in Order 11 rule 10 of these Rules have been complied with.
- (3) Notwithstanding the provisions of paragraph (2) of this rule, the Court may give judgment even if no certificate of service or delivery as provided by that Convention has been received if all the conditions listed in the said Article 15 and set out in Order 11 rule 10 of these Rules are fulfilled.

[Extension of time to appeal]

(4) Where judgment has been given in proceedings to which this rule relates against a defendant who has not appeared and that defendant wishes to apply for an extension of time for appeal from the judgment, the provisions of Order 11 Rule 12 shall apply in every such case.