



STATUTORY INSTRUMENTS.

S.I. No. 189 of 2018



RULES OF THE SUPERIOR COURTS (ORDER 61A) 2018

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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of the Courts of Justice Act 1936, section 67, and reconstituted pursuant to the provisions of the Courts of Justice Act 1953, section 15, by virtue of the powers conferred upon us by the Courts of Justice Act 1924, section 36, the Courts of Justice Act, 1936, section 68 (as applied by the Courts (Supplemental Provisions) Act 1961, section 48), the Courts (Supplemental Provisions) Act 1961, and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 16th Day of November, 2017.

Frank Clarke	Anthony Barr
Sean Ryan	Deirdre Murphy
Peter Kelly	Stuart Gilhooly
Elizabeth Dunne	Michael Kavanagh
Mary Finlay Geoghegan	Noel Rubotham
Michael Peart	John Mahon

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

Dated this 31st day of May, 2018.

CHARLES FLANAGAN,
Minister for Justice and Equality.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 12th June, 2018.*

S.I. No. 189 of 2018

RULES OF THE SUPERIOR COURTS (ORDER 61A) 2018

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Order 61A) 2018, shall come into operation on the 15th day of June 2018.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2018.

2. The Rules of the Superior Courts are amended:

(i) by the substitution for rule 11 of Order 61 of the following rule:

“11. (1) Every judgement or order of the High Court on Circuit shall be drawn up and signed by the County Registrar, and every judgement or order of the High Court sitting in Dublin shall be drawn up and signed by the Registrar of such Court, who shall transmit a copy thereof to the County Registrar of the appropriate county. Every judgement or order of the Court shall state whether it is made with or without costs and the sum (if any) payable for costs, including witnesses' expenses, shall be inserted therein, except in such cases as the Court may refer such costs and expenses for taxation.

(2) A copy of every judgement or order of the High Court on Circuit in a Circuit appeal from or against the making of an order transferring any civil action to the Court from the Circuit Court or an order sending forward any civil action or appeal to the Court from the Circuit Court shall be remitted to the proper officer of the Central Office forthwith on its being signed.”, and

(ii) by the insertion immediately following Order 61 of the Order set out in the Schedule.

SCHEDULE**“Order 61A****Proceedings transferred or sent forward from the Circuit Court**

1. When any civil action is transferred to the Court from the Circuit Court, by order of a Circuit Court Judge made in accordance with section 21(2) of the Courts of Justice Act 1936 or any civil action or appeal is sent forward to the Court from the Circuit Court, by order of a Circuit Court Judge made in accordance with section 22(8)(a) of the Courts (Supplemental Provisions) Act 1961, the following provisions of this Order shall apply, subject to any order made or direction given in accordance with rule 3.

2. When the officer having charge of the Central Office receives any proceedings transferred or sent forward to the Court from the proper officer of the Circuit Court, then, on the expiry of the time permitted for any appeal from the order of the Circuit Court without such appeal being made or on the refusal of such appeal, and without further order:

- (i) the proceedings shall be deemed to be adopted into the Court and shall thereafter be treated for all purposes, and continue as, proceedings in the Court;
- (ii) the proceedings shall be entered into the Cause Books kept in accordance with Order 5, rule 7 as if they had been commenced in the Court on the date on which the proceedings were received in the Central Office;
- (iii) where the reliefs sought in the proceedings are such that they should, if commenced in the Court, have been commenced by summary summons, the proceedings shall be treated as proceedings commenced by summary summons;
- (iv) where the reliefs sought in the proceedings are such that they should, if commenced in the Court, have been commenced by special summons, the proceedings shall be treated as proceedings commenced by special summons;
- (v) where the reliefs sought in the proceedings are such that they should, if commenced in the Court, have been commenced by personal injuries summons, the proceedings shall be treated as proceedings commenced by personal injuries summons;
- (vi) where the proceedings were commenced in the Circuit Court by originating notice of motion, the proceedings shall be treated as proceedings commenced in the Court by originating notice of motion and the originating notice of motion shall be assigned a return date before the Court;

- (vii) in any case where none of paragraphs (iii) to (vi) inclusive applies, the proceedings shall be treated as proceedings commenced by plenary summons, and any indorsement of claim on the originating document issued in the Circuit Court shall be treated as the plaintiff's statement of claim;
- (viii) every appearance entered in the Circuit Court shall be treated as an appearance entered in the Court;
- (ix) every defence entered in the Circuit Court shall be treated as a defence entered in the Court;
- (x) where pleadings have not closed in the Circuit Court, the further pleadings required by these Rules shall be delivered in accordance with the time limits for delivery of same specified by these Rules, subject to any order of the Court;
- (xi) where particulars, admissions or answers to interrogatories have been requested in the Circuit Court, any unanswered request for such shall be treated as an unanswered request for particulars, admissions or answers to interrogatories, as the case may be, in proceedings in the Court and may be acted upon accordingly;
- (xii) any affidavit filed in the Circuit Court shall be treated as an affidavit filed in the Court;
- (xiii) where a lodgment has been made in the Circuit Court, the Accountant shall transfer the amount of the lodgment exclusive of any interest earned to the credit of the action in the High Court, and any interest accrued on the lodgment up to the date of transfer to the credit of the High Court action shall be paid back to the party by whom the lodgment was made or his solicitor;
- (xiv) where no order has been made by the Circuit Court as to all or some of the costs of the proceedings had in the Circuit Court, then such costs shall, in accordance with Order 99, rule 2, be costs in the cause.

3. (1) In any case in which particulars of the initiation of proceedings in the Court are published on a website operated by the Courts Service, the publication of such particulars shall be deemed to be a notification to the parties of the date on which the proceedings were deemed to be adopted into the Court in accordance with rule 2 and of the record number assigned to the proceedings in the Court.

(2) In every case in which sub-rule (1) does not apply, the proper officer shall notify each party to the proceedings in writing (which may be by electronic mail) of the date on which the proceedings were deemed to be adopted into the Court in accordance with rule 2 and of the record number assigned to the proceedings in the Court. Such notification shall be sufficient if given to the solicitor on record in the Circuit Court for a party.

4. (1) When a party to proceedings which have been sent forward or transferred to the Court alleges that any consequence which arises by operation of rule 2 would be inconsistent with any terms or conditions imposed in the order of the Circuit Court, that party may apply to the Master, by motion on notice to the other party or parties, grounded on an affidavit where evidence as to any matter of fact is to be adduced, for directions varying the effect of any one or more of the provisions of rule 2 in the proceedings concerned.

(2) The Master may, on the hearing of an application under sub-rule (1), make any such orders or give any such directions varying the effect of any one or more of the provisions of rule 2 in the proceedings concerned as he considers are necessary or appropriate for the efficient continuance of the proceedings concerned before the Court consistently with any terms or conditions imposed in the order of the Circuit Court.

5. Nothing in rule 2 limits the ability of any party to amend any pleading or to make an additional lodgment in proceedings which have been sent forward or transferred, where the party concerned is then entitled to do so under these Rules, or to make any application to the Court for such purpose.

6. The provisions of this Order apply, where applicable and with the necessary modifications, to any civil action sent forward to the Court from the District Court, by order of a District Court Judge made in accordance with section 22(8)(b) of the Courts (Supplemental Provisions) Act 1961.”

EXPLANATORY NOTE

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

These Rules amend Order 61 in relation to appeals from the Circuit Court and insert a new Order 61A in the Rules regulating the conduct of proceedings transferred or sent forward to the High Court from the Circuit Court.

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