



STATUTORY INSTRUMENTS.

S.I. No. 454 of 2022



RULES OF THE SUPERIOR COURTS (PROCEDURE ON DEFAULT) 2022

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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, the Interpretation Act 2005, section 24 and of all other powers enabling us in this behalf, do hereby make the following Rules of Court.

Dated this 14th day of March, 2022.

Donal O'Donnell (Chairperson)

George Birmingham

Mary Irvine

Elizabeth Dunne

John A. Edwards

Máire Whelan

Richard Humphreys

Yvonne McNamara

Gráinne Larkin

Stuart Gilhooly

Liam Kennedy

James Finn

Mary Cummins

John Mahon

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

Dated this 8th day of September 2022.

Helen McEntee

Minister for Justice

S.I. No. 454 of 2022

RULES OF THE SUPERIOR COURTS (PROCEDURE ON DEFAULT) 2022

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Procedure on Default) 2022, shall come into operation on the 16th day of September 2022.

(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 2022.

2. The Rules of the Superior Courts are amended:

(i) by the substitution for rule 9 of Order 27 of the following rule:

“9.(1) In all actions other 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 10, set down the action on motion for judgment; and on the hearing of such application the Court shall, where it is satisfied that the defendant has been served with notice of the application, give to the plaintiff such judgment for such specific relief claimed in the statement of claim to which it considers the plaintiff to be entitled, unless the Court is satisfied, for reasons to be recited in the order, that it is necessary in the interests of justice that the time for delivery of the defence should be extended, in which case the provisions of sub-rule (2) will apply.

(2) Where the Court is satisfied to extend the time for delivery of the defence under sub-rule (1), the Court shall, to the extent possible, determine the specific relief claimed in the statement of claim to which it considers the plaintiff to be entitled in the event of the failure of the defendant to deliver a defence, and shall make an order:

(a) extending the time for delivery of a defence for such period as the Court considers necessary in all of the circumstances and directing the filing of a copy of the defence within that period in the Central Office, and

(b) further providing that, in the event that the defendant fails to deliver and file the defence within that period, the plaintiff shall have liberty to enter judgment (without further order) for the specific relief claimed in the statement of claim to which the Court has found the plaintiff to be entitled as aforesaid.

(3) In any case in which it considers it necessary to do so in order fully to specify the relief to which the plaintiff is entitled under sub-rule (1) or sub-rule (2), the Court may:

(a) direct the holding of any necessary accounts or enquiries or the taking of any other steps which it considers necessary to define more precisely the scope of the judgment to which it considers the plaintiff to be entitled;

(b) direct the assessment of any damages to which the plaintiff may be entitled, to be ascertained by a Judge and a jury, in case any party requires and is entitled to one, but otherwise without a jury, and, if without a jury, either by a Judge or by the Master or by the Examiner, as the Judge may direct, on evidence by affidavit or otherwise.”, and

(ii) by the substitution for sub-rule (2) of rule 15 of Order 27 of the following sub-rule:

“(2) Any judgment by default, whether under this Order or any other Order of these Rules, may be set aside by the Court upon such terms as to costs or otherwise as the Court may think fit, if the Court is satisfied that at the time of the default special circumstances (to be recited in the order) existed which explain and justify the failure, and any necessary consequential order may be made where an action has been set down under rule 9.”

EXPLANATORY NOTE

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

These rules substitute Order 27 rule 9 of the Rules of the Superior Courts to clarify the procedure where the court directs an unless order following an application for judgment in default of defence.

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