



STATUTORY INSTRUMENTS.

S.I. No. 74 of 2026



RULES OF THE SUPERIOR COURTS (EVIDENCE REGULATION) 2026

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We, the Superior Courts Rules Committee, by virtue of the powers conferred upon us by section 36 of the Courts of Justice Act 1924, section 68 of the Courts of Justice Act 1936 (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961), section 14 of the Courts (Supplemental Provisions) Act 1961 and the European Communities (Rules of Court) Regulations 1972 (S.I. No. 320 of 1972), and with the concurrence of the Minister for Justice, Home Affairs and Migration, make the following Rules of Court.

Dated this 10th day of July 2025.

Donal O'Donnell (Chairperson)

Caroline Costello

Yvonne McNamara

David Barniville

Elizabeth Dunne

Michele O'Boyle

Brian R. Murray

Áine Hynes

Mary Faherty

James Finn

Nuala Butler

Mary Cummins

Richard Humphreys

Mary Kelly

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



GIVEN under my Official Seal,
27 February, 2026.

JIM O'CALLAGHAN,
Minister for Justice, Home Affairs and Migration.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 6th March, 2026.

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RULES OF THE SUPERIOR COURTS (EVIDENCE REGULATION) 2026

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Evidence Regulation) 2026, shall come into operation on the 20th day of March 2026.

(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 2026.

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

3. The Rules of the Superior Courts are amended:

(i) by the substitution for rules 5 and 5A of Order 39 of the following rules respectively:

“5. (1) In this rule and in rule 5A:

“the Evidence Regulation” means Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast) (OJ L 405/1 of 2 December 2020);

“Member State” means a Member State of the European Union with the exception of Denmark.

(2) The Court may, in any case in which the Evidence Regulation applies, on the application of any party or of its own motion, order the issue of:

(a) a request, in Form A in the Annex to the Evidence Regulation, to the competent court of another Member State to take evidence; or

(b) a request in accordance with Article 19 of the Evidence Regulation, in Form L in the Annex to the Evidence Regulation, to a central body or competent authority, designated by the Member State concerned in accordance with Article 4(2) of the Evidence Regulation, to take evidence directly in that Member State.

(3) Where an order under this rule is sought by a party, the Court may, before making such an order, require that party to file in the Central Office for consideration by the Court a completed draft of Form A or Form L (as

appropriate) in the Annex to the Evidence Regulation (including any questions sought to be put to any witness, statement of facts about which any witness is sought to be examined, or documents or objects sought to be inspected by the opposing party), together with a certified translation thereof (where necessary) into the official language referred to in Article 6 of the Evidence Regulation, and an undertaking to reimburse without delay any fees or costs referred to in Article 22(2) of the Evidence Regulation, and to pay any advance or deposit referred to in Article 22(3) of the Evidence Regulation.

(4) Where an order under this rule is made of the Court's own motion, the Court may direct the parties or any of them to reimburse (subject to any order made in that regard by the requested court) any fees or costs referred to in Article 22(2) of the Evidence Regulation, and to pay any advance or deposit referred to in Article 22(3) of the Evidence Regulation in such shares as it shall direct.

(5) The Court may make such orders and give such directions as seem appropriate for the purposes of Articles 10, 12, 14 or Article 19 of the Evidence Regulation.

(6) The trial judge may make such order as to fees or costs referred to in Article 22(2) of the Evidence Regulation, or as to any costs occasioned by the application of Article 14 or Article 19 of the Evidence Regulation as shall seem appropriate, notwithstanding any previous undertaking, order or direction in that regard.

(7) An application under rule 5(2) shall, unless the Court otherwise directs or permits, be made by notice of motion grounded upon an affidavit sworn by or on behalf of the applicant.

5A. (1) If in any case in which the Evidence Regulation does not apply the Court orders that a request to examine witnesses shall issue in lieu of a commission, the Forms Nos. 1 and 3 in Appendix D, Part II, shall be used for the order and request, respectively.

(2) Where an order is made for the issue of a request to examine a witness or witnesses in any foreign country in which the Evidence Regulation does not apply, the following procedure shall be adopted:

- (a) the party obtaining such order shall file in the Central Office an undertaking in the Form No. 2 in Appendix D, Part II.
- (b) such undertaking shall be accompanied by:
 - (i) a request in the Form No. 3 in Appendix D, Part II, with such variations as may be

directed in the order for the issue thereof, together with a translation of such request into the language of the country in which the same is to be executed;

- (ii) a copy of the interrogatories (if any) to accompany the request and a translation thereof;
- (iii) a copy of the cross-interrogatories (if any) and a translation thereof.

(3) Where, in any case in which the Evidence Regulation does not apply, an order is made for the examination of a witness or witnesses before the Irish Consular Authority in any foreign country, such order shall be in the Form No. 4 in Appendix D, Part II.

(4) An application for an order under rule 5A(1) shall, unless the Court otherwise directs or permits, be made by notice of motion grounded upon an affidavit sworn by or on behalf of the applicant.”

EXPLANATORY NOTE

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

These rules update Order 39 Rule 5 and 5A to reflect the provisions of Regulation 1783/2020 recasting Regulation (EC) 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

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