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The Rules of the Superior Courts

Order: 61

APPEALS FROM THE CIRCUIT COURT

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

[No61-S.I. No. 20 Of 1989: Rules Of The Superior Courts \(No. 2\) 1989.](#)

1. In this Order:

"the Act" means the Courts of Justice Act, 1936:

"County Registrar" includes any deputy County Registrar and any person appointed to act as such Registrar or deputy and also where the context permits, any person appointed to act as Registrar to the High Court on Circuit.

2. Every appeal under Part IV of the Act shall be by notice of appeal which shall be served on every party directly affected by the appeal within ten days from the date on which the judgement or order appealed from was pronounced in open court. The notice shall state whether the whole or part only of such judgement or order is appealed from and in the latter case shall specify such part. The notice shall, in the case of appeals to the High Court sitting in Dublin, be for the first opportunity after the expiration of ten days from the date of service, and, in the case of appeals to the High Court on Circuit, be for the next sitting of the High Court on Circuit after the expiration of the said ten days. Such notice of appeal shall be either in the Form No. 1 or the Form No. 2 (as the case may be) in Appendix I.

3. The appellant shall, within the said period of ten days from the date on which the judgement or order appealed from was pronounced,

(a) in the case of appeals to the High Court sitting in Dublin lodge two copies of the notice of appeal,

(b) in any other case one copy of the notice of appeal, indorsed with the date of service together with an affidavit of service with the County Registrar of the County in which the case was heard, and shall, before the day named for the hearing of the appeal, lodge an attested copy of the judgement or order appealed from with the said County Registrar, together with, in the case of any action or matter at the hearing or for the determination of which no oral evidence was given, a copy of all documents and exhibits received in evidence or used upon the said hearing or determination.

4. In the case of appeals to the High Court sitting in Dublin, the County Registrar shall—

(a) indorse on the two copies of the notice of appeal the date of lodgement thereof and shall, within four days of the said date, transmit to the Central Office one of the said copies,

(b) transmit to the Central Office, as soon as may be after he has received the same, a certified copy of the judgement or order appealed from, and

(c) in the case of any action or matter at the hearing or for the determination of which no oral evidence was given, the copy documents and exhibits and the affidavits (if any) lodged with him.

5. It shall not in any circumstances be necessary for a party served with notice of appeal to lodge or serve a notice by way of cross-appeal, but, if such party intends upon the hearing of the appeal to apply that the judgement or order appealed from shall be varied, he shall, within four days from such service upon him, give notice of such intention to any party who may be directly affected by such application.

6. An appeal shall not operate as a stay of proceedings upon the judgement or order appealed from unless the Circuit Judge or, upon appeal, the High Court sitting in Dublin shall so order and then only upon such terms (if any) as the Circuit Judge or the High Court sitting in Dublin (as the case may be) may fix. Such appeal shall be by notice of motion served on all parties affected by the application and lodged with the County Registrar within four days of the application to the

Circuit Judge. The County Registrar shall within two days of lodgement thereof transmit the said notice of motion to the Central Office.

7. In the case of any appeal, if the appellant shall, before the day for hearing of the appeal, give notice in writing, to every party served with notice of appeal and to the County Registrar that he does not intend to prosecute the appeal, there shall only be payable by the appellant the costs properly and necessarily incurred prior to the date of service of such notice in writing.

8. Where any party desires to submit fresh evidence upon the hearing of an appeal in any action or matter at the hearing or for the determination of which no oral evidence was given, he shall serve and lodge an affidavit setting out the nature of the evidence and the reasons why it was not submitted to the Circuit Court. Any party on whom such affidavit has been served shall be entitled to serve and lodge an answering affidavit or to apply to the Court on the hearing of the appeal for leave to submit such evidence, oral or otherwise, as may be necessary for the purpose of answering such fresh evidence, provided, however, that the Court may at any time admit fresh evidence, oral or otherwise on such terms as the Court shall think fit, and may order the attendance for cross-examination of the deponent in any affidavit used in the Circuit Court or the High Court.

9. The notice of appeal from the refusal of an ex parte application shall be a two days' notice, and it shall not be necessary to serve any person.

10. Where a defendant desires to contest as respondent in pursuance of the Civil Liability Act, 1961, section 32 (3), an appeal brought by a co-defendant, he shall serve notice of his intention to do so in the Form No. 30 in Appendix C upon such co-defendant and the plaintiff and upon any other party directly affected thereby, within seven days from the date on which the notice of appeal was served upon him, or within such extended time as may be allowed by the Court, and shall lodge a copy of the notice of intention to contest the appeal with the County Registrar at latest upon the day after the last service of such notice.

11. 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.

12. The costs of appeals, when referred for taxation, shall be taxed by the County Registrar of the appropriate county (who shall for this purpose have all the powers of a Taxing Master). Such costs shall, subject to any special direction by the Court, be taxed on the scale applicable to an action or matter commenced or heard in the Circuit Court, with the addition of necessary outlay and the items set out in Appendix W., Part V. Any application for the review of a taxation effected under this rule shall be by notice of motion to the High Court sitting in Dublin served on all parties affected by the application and lodged in the Central Office within ten days from the date of the certificate of taxation. The notice of motion shall specify the items or parts thereof objected to and the grounds and reasons for such objection and a copy thereof shall be transmitted forthwith from the Central Office to the County Registrar for his report or observation thereon. In the taxation of costs under this rule, the County Registrar shall have regard to the costs allowed or allowable in respect of the hearing of the case in the Circuit Court.

13. Where, under this Order, any document is required or authorised to be lodged with the County Registrar, or any notice is required or authorised to be given to the County Registrar, the same may be lodged or given by leaving the document or notice with the county Registrar or by forwarding the same by pre-paid registered post to the County Registrar and, in such latter case, the date of lodgement or receipt shall be the day of the actual receipt of the document or notice by the County Registrar.

14. Whenever the party to be served with a notice of appeal or other notice or document has appeared by a solicitor at the hearing of the suit or matter on the occasion of making the judgement or order appealed from, all notices and other documents to be served on such party shall be served on the solicitor by whom such party so appeared, and such service shall be effected by leaving them at the office of such solicitor.

15. The mode of effecting service of any notice of appeal, or other notice or document, on a party who shall not have appeared by a solicitor as aforesaid, shall be by serving it personally on such party, or by leaving it at the residence of such party, with a clerk, servant, wife or child, or other person therein over the age of sixteen years, or by posting it in a registered letter addressed to such party at his last known residence.

16. In case the mode of service aforesaid shall not be reasonably possible the Court shall have power to deem any other service sufficient.

17. When it shall be necessary to prove such service it may be proved by affidavit of the person effecting such service or otherwise as the Court shall direct.

18. A subpoena ad testificandum or duces tecum at the High Court on Circuit may be sued out either in the Central Office or in the office of the County Registrar of the County in which the case was heard.

19. Where a subpoena is sued out in the office of the County Registrar under rule 18, the subpoena shall issue out of that office and be sealed with the seal of the Circuit Court for the County in which the case was heard and be signed by the County Registrar; and every subpoena so issued, sealed and signed shall have the same force and effect as if it had been issued out of the Central Office.

20. Every judgement or order of the High Court on Circuit and of the High Court sitting in Dublin may (unless the Court shall otherwise direct) be enforced by execution order issued by the Circuit Court in accordance with the Rules of the Circuit Court for the time being in force as if it were a judgement or order of the Circuit Court.

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