



New Irish court rules simplify service of proceedings outside of the state

Insights - 13/11/2024

The Irish government has introduced changes to the procedures for serving proceedings to parties that are in countries not part of international jurisdiction and service conventions. Statutory Instrument No. 362/20241 (**the SI**) amends Order 11 of the Rules of the Superior Courts in that respect.

Order 11 provides that service of proceedings outside of Ireland (that are not otherwise covered by prescribed international jurisdiction and service conventions) requires the leave of the High Court. The procedure for doing so involves an application to court supported by affidavit or other appropriate evidence.

The revised Order 11, which came into effect on 31 July 2024, expands the classes of actions which the High Court may authorise to be served outside the jurisdiction. The SI also broadens the scope of certain types of action already listed under Order 11, leading to an overall enhancement of Order 11 and a greater ability to serve a starting legal document outside of Ireland.

Clarification of actions already listed in Order 11

Rule 1 of Order 11 lists the types of action in which the Court may allow a summons to be served abroad. The Courts require that the relevant class of action is prescribed in the affidavit grounding the application. This includes matters involving land in Ireland, contractual disputes, matters relating to arbitration, personal property and equitable reliefs, with the following notable amendments:

- In land-related matters, it is no longer the case that the " whole subject matter of the action " would have to be land situate in Ireland. This has now been expanded to encompass any action that " concerns " land in Ireland.
- The requirement in respect of a contract to satisfy explicit criteria regarding the nature of the dispute has been amended to simply require that the action must be " one in respect of a

contract."

- Simplified wording is also introduced in respect of arbitration, setting out that the proceeding should relate to (a) an arbitration held within the jurisdiction; or (b) relief within the jurisdiction in connection with an arbitration held outside the jurisdiction.

New types of action

The procedures under Order 11 may now be used to seek service of proceedings outside of the jurisdiction:

- to enforce a right of action in respect of personal property situate in Ireland
- involving the disclosure of information concerning the identity of a wrongdoer
- in a probate action concerning the estate of a person domiciled or ordinarily resident in the State or concerning real or personal property situated in the State
- where equitable relief is sought in proceedings properly instituted or capable of being instituted within the jurisdiction
- where jurisdiction is otherwise given to the Court in accordance with the generally recognised principles of international law

Order 11, Rule 2

Rule 2 of Order 11 is has been amended so that the Court will consider international law principles when determining whether to allow service outside the jurisdiction. The Court may now require written legal submissions to be filed.

The Court will also evaluate whether the applicant shows enough grounds to establish a valid cause of action. This replaces the previous requirement for the Court to consider comparative values of claims and the convenience of proceedings in Ireland as opposed to the defendant's place of residence.

Order 11, Rule 5

An update to Rule 5 of Order 11 specifies that in the applicant's supporting affidavit, they must state the particular subheading of Rule 1 being relied on in seeking leave, as well as the facts which prove that the subheading is applicable. While the Courts previously required this in practice, the amendments provide welcome clarification.

Order 11, Rule 10

The new Rule 10 brings in a new procedure for a defendant to challenge the Court's jurisdiction by entering a conditional appearance. This mechanism was previously only available in respect of the Brussels I Regulation (recast), the Lugano Convention, the Brussels Convention or the Council Regulation (EU) 2019/1111 (Brussels II bis).

Order 12

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Conclusion

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How Ogier can help

Ogier's Dispute Resolution experts in Ireland can assist in navigating these updated procedures to ensure compliance and effective service of legal documents internationally. Contact our team via their details below.

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