

CHAPTER 65

REFERENCES TO THE EUROPEAN COURT OF JUSTICE

Interpretation of this Chapter

65.1.- (1) In this Chapter-

"appeal" includes an application for leave to appeal;
"the European Court" means the Court of Justice of the European Communities;
"reference" means a reference to the European Court for-

- (a) a preliminary ruling under Article 234 of the E.E.C.Treaty, Article 150 of the Euratom Treaty, or Article 41 of the E.C.S.C.Treaty;
- (b) a preliminary ruling on the interpretation of the Conventions, mentioned in Article 1 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1982(a) under Article 3 of that Schedule; or
- (c) a preliminary ruling on the interpretation of the instruments, mentioned in Article 1 of Schedule 3 to the Contracts (Applicable Law) Act 1990(b), under Article 2 of that Schedule.

(2) The expressions "E.E.C.Treaty", "Euratom Treaty" and "E.C.S.C. Treaty" have the meanings assigned respectively in Schedule 1 to the European Communities Act 1972 (c).

Applications for reference

65.2. A reference may be made by the court at its own instance or on the motion of a party.

Preparation of case for reference

65.3.- (1) Where the court decides that a reference shall be made, it shall pronounce an interlocutor giving directions to the parties about the manner and time in which the reference is to be drafted and adjusted.

(1A) Except in so far as the court may otherwise direct, a reference shall be prepared in accordance with Form 65.3.

(1B) In preparing a reference the parties shall have regard to guidance issued by the European Court of Justice.

(2) When the reference has been drafted and any adjustments required by the court have been made, the court shall make and sign the reference.

(3) A certified copy of the interlocutor making the reference shall be annexed to the reference.

Sist of cause

65.4.- (1) Subject to paragraph (2), on a reference being made, the cause shall, unless the court when making such a reference otherwise orders, be sisted until the European Court has given a preliminary ruling on the question referred to it.

(a) 1982 c.27.

(b) 1990 c.36

(c) 1972 c.68.

(2) The court may recall a sist made under paragraph (1) for the purpose of making an interim order which a due regard to the interests of the parties may require.

Transmission of reference

65.5.- (1) Subject to paragraph (2), a copy of the reference, certified by the Deputy Principal Clerk, shall be transmitted by him to the Registrar of the European Court.

(2) Unless the court otherwise directs, a copy of the reference shall not be sent to the Registrar of the European Court where a reclaiming motion or appeal against the making of the reference is pending.

(3) For the purpose of paragraph (2), a reclaiming motion or an appeal shall be treated as pending-

- (a) until the expiry of the time for marking that reclaiming motion or appeal; or
- (b) where a reclaiming motion or an appeal has been made, until it has been determined.