
STATUTORY INSTRUMENTS

1993 No. 604

JUDGMENTS

The Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993

Made - - - - - *10th March 1993*
Laid before Parliament *19th May 1993*
Coming into force - - - *1st April 1993*

At the Court at Buckingham Palace, the 10th day of March 1993

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 13(1) of the Civil Jurisdiction and Judgments Act 1982(1) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993 and shall come into force on 1st April 1993.

(2) In this Order—

- (a) “the Act” means the Civil Jurisdiction and Judgments Act 1982,
- (b) “the Convention” means a Convention mentioned in section 13 of the Act,
- (c) “a Contracting State” means a Contracting State as defined in section 1 of the Act(2), and
- (d) references to authentic instruments and court settlements are references to those instruments and settlements referred to in Articles 50 and 51 of Title IV of the Convention.

2.—(1) Subject to the modification specified in paragraph (2), the following provisions of the Act shall apply to authentic instruments and court settlements which are not maintenance orders as if they were judgments, other than maintenance orders, to which the Convention applies—

section 4(3) (enforcement of judgments other than maintenance orders),

(1) 1982 c. 27; section 13(1) was amended by paragraph 8 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1991 c. 12 (“the 1991 Act”).

(2) Section 1 was amended by section 2 of the 1991 Act.

(3) Section 4 was amended by paragraph 2 of Schedule 2 to the 1991 Act.

section 6(1) and (2)(4) (appeals under Article 37 second paragraph and Article 41),
section 7(1), (2), (3) and (5) (interest on registered judgments).

(2) In the application of section 4(3) of the Act to authentic instruments and court settlements, other than maintenance orders, for the words “as if the judgment had been originally given” there shall be substituted the words “as if it was a judgment which had been originally given”.

3.—(1) Subject to the modification specified in paragraph (2), the following provisions of the Act shall apply to authentic instruments and court settlements which are maintenance orders as if they were maintenance orders to which the Convention applies—

section 5(5) (recognition and enforcement of maintenance orders),
section 6(3),
section 7(1), (2), (4) and (5),
section 8 (currency of payment under registered maintenance orders).

(2) In the application of section 5(4) of the Act to authentic instruments and court settlements which are maintenance orders, for the words “as if the order had been originally made” there shall be substituted the words “as if it was an order which had been originally made”.

4.—(1) Subject to the modification specified in paragraph (2), section 11 of the Act(6) (proof and admissibility of certain judgments and related documents) shall apply to authentic instruments and court settlements as if they were judgments which had been given by courts of Contracting States other than the United Kingdom and to which the Convention applies.

(2) In the application of section 11 to authentic instruments, for subsection (2) there shall be substituted the following—

“(2) A document purporting to be a copy of an authentic instrument drawn up or registered, and enforceable, in a Contracting State other than the United Kingdom is duly authenticated for the purposes of this section if it purports to be certified to be a true copy of such an instrument by a person duly authorised in that Contracting State to do so”.

5.—(1) Subject to the modifications specified in paragraph (2), section 12 of the Act(7) (provision for issue of copies of, and certificates in connection with, United Kingdom judgments) shall apply to authentic instruments as it applies to judgments.

(2) In the application of section 12 to authentic instruments—

- (a) for the words “Rules of court may” there shall be substituted the words “The Court of Session may by Act of Sederunt”;
- (b) for the words “judgment given by a court in the United Kingdom” there shall be substituted the words “a judgment within section 18(2)(c)”; and
- (c) the words “and the proceedings in which it was given” shall be omitted.

6. Section 15(2) and (3) of the Act(8) (interpretation of Part I of the Act and consequential amendments) shall apply to authentic instruments and court settlements as if they were judgments to which the Convention applies.

7. The disapplication of section 18 of the Act (enforcement of United Kingdom judgments in other parts of United Kingdom) by subsection (7) thereof shall extend to authentic instruments and

(4) Section 6(1) was amended by paragraph 3 of Schedule 2 to the 1991 Act.

(5) Section 5 was amended by paragraph 2 of Schedule 2 to the 1991 Act.

(6) Section 11 was amended by paragraph 6 of Schedule 2 to the 1991 Act.

(7) Section 12 was amended by paragraph 7 of Schedule 2 to the 1991 Act.

(8) Section 15(3) was amended by paragraph 10 of Schedule 2 to the 1991 Act.

court settlements enforceable in a Contracting State outside the United Kingdom which fall to be treated for the purposes of their enforcement as judgments of a court of law in the United Kingdom by virtue of registration under section 4 or 5 of the Act, as applied by this Order.

8. Section 48 of the Act⁽⁹⁾ (matters for which rules of court may provide) shall apply to authentic instruments and court settlements as if they were judgments to which the Convention applies.

N. H. Nicholls
Clerk of the Privy Council

⁽⁹⁾ Section 48 was amended by paragraph 23 of Schedule 2 to the 1991 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies specified provisions in the Civil Jurisdiction and Judgments Act 1982 (as amended) (which implements the 1968 Brussels Convention and the 1988 Lugano Convention) to authentic instruments and court settlements from Contracting States other than the United Kingdom, which by virtue of Title IV of each of the Conventions are enforceable in the same manner as judgments.

Authentic instruments usually take the form of agreements containing obligations, which are drawn up by the parties before a notary public. They exist in most European legal systems, as do court settlements, which are settlements of legal proceedings agreed by the parties and approved by the court, and which are enforceable without having to be drawn up as judgments.

Sections 4 to 8, 11, 12 and 15 are applied, with modifications, and section 48 is applied, to such documents and settlements as if they were judgments to which the relevant Convention applies.