

2014 No. 2947

JUDGMENTS

**The Civil Jurisdiction and Judgments (Amendment) Regulations
2014**

<i>Made</i> - - - -	<i>10th November 2014</i>
<i>Laid before Parliament</i>	<i>12th November 2014</i>
<i>Coming into force</i> - -	<i>10th January 2015</i>

The Secretary of State for Justice, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to private international law(b), makes the following Regulations in exercise of the power under section 2(2) of the European Communities Act 1972.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Jurisdiction and Judgments (Amendment) Regulations 2014 and shall come into force on 10th January 2015.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) An amendment, repeal or revocation made by these Regulations has the same extent as the enactment amended, repealed or revoked.

Amendments to the Civil Jurisdiction and Judgments Act 1982

2. Schedule 1 (which makes amendments to the Civil Jurisdiction and Judgments Act 1982(c)) has effect.

Amendments to the Civil Jurisdiction and Judgments Order 2001

3. Schedule 2 (which makes amendments to the Civil Jurisdiction and Judgments Order 2001(d)) has effect.

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- (a) 1972 c.68. Section 2 was amended by section 27(1)(a) and (b) of the Legislative and Regulatory Reform Act 2006 (c.51).
- (b) The European Communities (Designation) (No. 2) Order 2008 (S.I. 2008/1792). Under section 57(1) of the Scotland Act 1998 (c.46), despite the transfer to the Scottish Ministers of functions in relation to implementation of obligations under Community law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable by the Secretary of State as regards Scotland. Implementation of obligations under Community law in respect of devolved matters is itself a devolved matter in Northern Ireland. However, the designation of the Secretary of State under the European Communities (Designation) (No. 2) Order 2008 in relation to private international law remains exercisable in relation to Northern Ireland. This is despite the designation of Northern Ireland Departments in relation to that matter by virtue of the European Communities (Designation) (No. 5) Order 2010 (S.I. 2010/2690), as that designation does not restrict the scope of other designations.
- (c) 1982 c. 27. Relevant amendments were made by S.I. 1989/1346, S.I. 1990/2591, S.I. 2000/1824, S.I. 2001/3929, S.I. 2007/1655 and S.I. 2009/3131 and in the Civil Jurisdiction and Judgments Act 1991.
- (d) S.I. 2001/3929, amended by S.I. 2007/1655, S.I. 2011/1484 and S.I. 2014/879.

Amendments to the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001

4. Schedule 3 (which makes amendments to the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001(a)) has effect.

Consequential amendments to other enactments

5. Schedule 4 (which makes consequential amendments to other enactments) has effect.

Transitional and saving provision

6.—(1) For the purposes of proceedings, judgments and authentic instruments and court settlements to which, by virtue of article 66(2) of the Judgments Regulation (transitional provisions), the previous Judgments Regulation continues to apply—

- (a) the amendments made by these Regulations do not apply; and
- (b) the enactments amended by these Regulations continue to have effect as if those amendments had not been made.

(2) In this regulation—

- (a) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(b) as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(c); and
- (b) “the previous Judgments Regulation” means Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(d) as amended from time to time and as applied by the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(e).

Signed by authority of the Secretary of State

10th November 2014

Edward Faulks
Minister of State
Ministry of Justice

SCHEDULE 1

Regulation 2

Amendments to the Civil Jurisdiction and Judgments Act 1982

1. The Civil Jurisdiction and Judgments Act 1982 is amended as follows.

2. In section 1 (interpretation of references to the Convention and Contracting States), in subsection (1) for the definition of “the Regulation” substitute the following definition—

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- (a) S.I. 2001/3928, amended by S.I. 2007/1655 and S.I. 2011/1484.
 - (b) OJ No. L 351, 20.12.2012, p.1
 - (c) OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4.
 - (d) OJ No. L 12, 16.1.2001, p.1
 - (e) OJ No L 299, 16.11.2005, p62.

““the Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4);”.

3. In section 16 (allocation within UK of jurisdiction within certain civil proceedings), in subsection (1)(b), for Article 22” substitute “Article 24”.

4. In section 48 (matters for which rules of court may provide)—

(a) in subsection (2)(a), omit “, the Regulation”; and

(b) after subsection (2)(a) insert—

“(aa) which is enforceable in the United Kingdom under the Regulation.”.

SCHEDULE 2

Regulation 3

Amendments to the Civil Jurisdiction and Judgments Order 2001

1. The Civil Jurisdiction and Judgments Order 2001 is amended as follows.

2. In Article 2 (interpretation), in paragraph (1), for the definition of “the Regulation” substitute—

““the Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(a) as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(b);”.

3.—(1) Schedule 1 (the Regulation) is amended as follows.

(2) In paragraph 1 (interpretation)—

(a) in sub-paragraph (1), in the definition of “judgment”, for “Article 32” substitute “Article 2”; and

(b) omit sub-paragraph (3).

(3) In paragraph 2 (enforcement of judgments other than maintenance orders (section 4))—

(a) in sub-paragraph (1)—

(i) for “registered” substitute “enforced”; and

(ii) for “registration” substitute “enforcement”;

(b) for sub-paragraph (2) substitute—

“(2) A judgment to be enforced under the Regulation shall for the purposes of its enforcement be of the same force and effect, the enforcing court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgment had been originally given by the enforcing court.

(2A) Where a judgment to be enforced under the Regulation would, if it had been given by a court in Northern Ireland, be enforced by the Enforcement of Judgments Office pursuant to the Judgments Enforcement (Northern Ireland) Order 1981(c), that judgment shall for the purposes of its enforcement be of the same force and effect, the Enforcement

(a) OJ No. L 351, 20.12.2012, p.1

(b) OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4

(c) SI 1981/226 (NI 6)

of Judgments Office shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgment had been originally given by a court in Northern Ireland.”; and

(c) in sub-paragraph (3), for “Article 47 (restriction on enforcement where appeal pending or time for appeal unexpired)” substitute “Articles 41(2) and 46”.

(4) After paragraph 2, insert—

“Adaptation orders: Northern Ireland

2A.—(1) This article applies in relation to proceedings in Northern Ireland in relation to the adaptation of a measure or order pursuant to article 54 of the Regulation.

(2) In this article, an “adaptation order” means an order for the adaptation of a legal remedy which is contained in a foreign judgment but is unknown under the law of Northern Ireland pursuant to article 54 of the Regulation.

(3) The High Court may make an adaptation order on application or on its own initiative.

(4) An application for an adaptation order or a challenge under article 54(2) of the Judgments Regulation to the adaptation of any measure must be made to the High Court.

(5) A county court or the Enforcement of Judgments Office must refer any matter arising before it in relation to the adaptation of a measure or order pursuant to article 54 of the Regulation to the High Court.”

(5) Omit paragraph 3 (recognition and enforcement of maintenance orders).

(6) In paragraph 4 (appeals under article 44 and Annex IV), in the heading and in sub-paragraph (1), for “Article 44 and Annex IV” substitute “Article 50 and 75(c)”.

(7) In paragraph 5 (interest on registered judgments (section 7))—

(a) in the heading, omit “registered”;

(b) for sub-paragraph (1) substitute—

“(1) Subject to sub-paragraph (2) and rules of court as to the payment of interest under this paragraph, where a person applying for enforcement of a judgment under the Regulation shows that—

(a) the judgment provides for the payment of a sum of money; and

(b) in accordance with the law of the Regulation State in which the judgment was given and the terms of the judgment, interest on that sum is recoverable at a particular rate and from a particular date or time,

the debt resulting from enforcement of the judgment is to carry interest at that rate and from that date or time.”

(c) in sub-paragraph (2)—

(i) for “registering” substitute “enforcing”; and

(ii) for “registration” substitute “enforcement”;

(d) omit sub-paragraph (3); and

(e) in sub-paragraph (4), for “Except as mentioned in sub-paragraph (3), debts under judgments registered” substitute “Debts under judgments enforced”.

(8) Omit paragraph 6 (currency of payment under registered maintenance orders (section 8)).

(9) In paragraph 7 (allocation within United Kingdom of jurisdiction with respect to trusts and consumer contracts (section 10))—

(a) In sub-paragraph (2), for “Article 5(6)” substitute “Article 7(6)”; and

(b) In sub-paragraph (3), for “Article 16(1)” substitute “Article 18(1)”.

(10) In paragraph 8 (proof and admissibility of certain judgments and related documents (section 11)), in sub-paragraph (1)(b), for “Article 54 and Annex V” substitute “Article 53 and Annex I”.

(11) In paragraph 9 (domicile of individuals (section 41)), in sub-paragraph (1), for “Article 59” substitute “Article 62”.

(12) In paragraph 10 (seat of company or other legal person or association for purposes of Article 22(2) (section 43)), in the heading, in sub-paragraph (1) and in sub-paragraph (4)(b), for “Article 22(2)” substitute “Article 24(2)”.

(13) In paragraph 11 (persons deemed to be domiciled in the United Kingdom for certain purposes (section 44))—

- (a) in sub-paragraph (2)(a), for “Article 9(2)” substitute “Article 11(2)”;
- (b) in sub-paragraph (2)(b), for “Article 15(2)” substitute “Article 17(2)”;
- (c) in sub-paragraph (2)(c), for “Article 18(2)” substitute “Article 20(2)”.

SCHEDULE 3

Regulation 4

Amendments to the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001

1. The Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001 is amended as follows.

2. In Article 1, in paragraph (2), for the definition of “the Regulation” substitute—

““the Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(**a**) as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(**b**);”

3. In Article 2—

- (a) in paragraph (4)—
 - (i) in the modified sub-paragraph (1)(b) (of paragraph 8 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001) substituted by sub-paragraph (a), for “Article 57 and Annex VI” substitute “Articles 58 and 60 and Annex II”; and
 - (ii) in the modified sub-paragraph (2) (of paragraph 8 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001), omit “drawn up or registered, and” and the comma after “enforceable”; and
- (b) in paragraph (5)—
 - (i) for “54” substitute “53”; and
 - (ii) for “58” substitute “60”.

4. In Article 3, for “registration” substitute “enforcement”.

(a) OJ No. L 351, 20.12.2012, p.1

(b) OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4.

Consequential amendments to other enactments

The Merchant Shipping (Liner Conferences) Act 1982 (c. 37)

1. In section 5 of the Merchant Shipping (Liner Conferences) Act 1982 (liability of members of conference to be in proportion to their responsibility)(a), in subsection (6), for the words from “Council Regulation” to the end substitute “Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4)”.

The Companies Act 1989 (c. 40)

2. In section 183 of the Companies Act 1989 (insolvency proceedings in other jurisdictions)(b), in subsection (3), for the words from “Council Regulation” to the end substitute “Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4)”.

The Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (NI 10))

3. In Article 104 of the Companies (No. 2) (Northern Ireland) Order 1990 (insolvency proceedings in other jurisdictions)(c), in paragraph (3), for the words from “Council Regulation” to the end substitute “Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters”.

The High Court and County Courts Jurisdiction Order 1991 (S.I. No. 1991/724)

4. After article 6F of the High Court and County Courts Jurisdiction Order 1991(d), insert—

“6G.—(1) In this article—

- (a) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil

(a) Subsection (6) of section 5 was amended by S.I. 2001/3929, article 5, Schedule 3, paragraph 17, and by S.I. 2007/1655, regulation 5, Schedule, Part 1, paragraph 11.

(b) Subsection (3) of section 183 was amended by S.I. 2001/3929, article 5, Schedule 3, paragraph 21, and by S.I. 2007/1655, regulation 5, Schedule, Part 1, paragraph 15.

(c) Paragraph (3) of article 104 was amended by S.I. 2001/3929, article 5, Schedule 3, paragraph 23, and by S.I. 2007/1655, regulation 5, Schedule, Part 1, paragraph 27(2).

(d) Article 6F was inserted by S.I. 2014/821, article 2(1) and (8).

and commercial matters (OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4);

- (b) “adaptation order” means an order for the adaptation of a legal remedy which is contained in a foreign judgment but is unknown under the law of England and Wales pursuant to article 54 of the Judgments Regulation.

(2) An application for an adaptation order or a challenge under article 54(2) of the Judgments Regulation to the adaptation of any measure without an adaptation order must be made to the High Court.”

The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979)

5. In regulation 25 of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (insolvency proceedings in other jurisdictions)(a), in paragraph (3), for the words from “Council Regulation” to the end substitute “Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4)”.

The Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)

6. In section 56(4)(b)(iii) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007(b), for the words from “Council” to the end substitute “Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4)”.

The Defamation Act 2013 (c. 26)

7. In section 9(5) of the Defamation Act 2013, in the definition of “the Brussels Regulation”, for the words from “Council Regulation” to the end substitute “Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No L 299, 16.11.2005, p62; OJ No L79, 21.3.2013, p4)”.

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations make provision to facilitate the application of Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (“the recast Judgments Regulation”) in the United Kingdom from 10th January 2015.

(a) Paragraph (3) of regulation 25 was amended by S.I. 2001/3929, article 5, Schedule 3, paragraph 27, and by S.I. 2007/1655, regulation 5, Schedule, Part 2, paragraph 32.

(b) Section 56(4)(b)(iii) was amended by S.I. 2007/1655, regulation 5, Schedule 1, paragraph 19.

The recast Judgments Regulation replaces Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“the original Judgments Regulation”). The recast Judgments Regulation contains revised provisions both on jurisdiction, and on recognition and enforcement of judgments.

These Regulations make amendments to various enactments, in particular the Civil Jurisdiction and Judgments Act 1982, the Civil Jurisdiction and Judgments Order 2001 and the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001, which are consequential on the replacement of the original Judgments Regulation by the recast Judgments Regulation and the changes made by the recast Judgments Regulation.

The main change in the recast Judgment Regulation requiring such consequential amendment is in relation to recognition and enforcement of judgments, for which the recast Judgments Regulation removes the process known as *exequatur* which, under the original Judgments Regulation, requires a judgment of a court in another Member State which is to be enforced in one of the jurisdictions in the United Kingdom to undergo a process of registration and a declaration of enforceability in the relevant jurisdiction before it can be enforced there. Provisions which govern or refer to that process are accordingly amended or revoked to reflect the fact that it is no longer applicable for judgments which are enforceable under the recast Judgments Regulation.

Regulation 2 and Schedule 1 make amendments to the Civil Jurisdiction and Judgments Act 1982. Those amendments replace references to the original Judgments Regulation or to provisions of it, with references to the recast Judgments Regulation, or to the corresponding provisions of it, and to replace a reference to a judgment being registered under the Regulation with a reference to a judgment being enforceable under the Regulation, to reflect the removal of *exequatur*.

Regulation 3 and Schedule 2 make amendments to the Civil Jurisdiction and Judgments Order 2001. Those amendments—

- replace references to the original Judgments Regulation or to provisions of it with references to the recast Judgments Regulation or to the corresponding provisions of it;
- remove references to requirements for registration of a judgment for enforcement under the Regulation;
- replace references to registration of judgments under the Regulation with references to enforcement under the Regulation;
- remove provisions relating to enforcement of maintenance orders under the Regulation, since maintenance orders are not enforceable under the recast Judgments Regulation.

Regulation 4 and Schedule 3 make amendments to the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001 to replace references to the original Judgments Regulation or to provisions of it, with references to the recast Judgments Regulation, or to the corresponding provisions of it.

Regulation 5 and Schedule 4 make amendments to other enactments, to replace references to the original Judgments Regulation with references to the recast Judgments Regulation, and to make provision for jurisdiction in relation to “adaptation orders” pursuant to Article 54 of the recast Judgments Regulation.

Regulation 6 makes transitional and saving provision. The transitional provisions in article 66 of the recast Judgments Regulation have the effect that the original version of the Judgments Regulation will continue to apply, in relation to judgments arising from existing proceedings, for a significant period. Rather than have two sets of provisions in the various enactments which are amended, the approach adopted is to make amendments which remove from those enactments the provisions relating to the original version of the Judgments Regulation, but to provide (as regulation 6 does) for the amendments not to apply where the original version of the Judgments Regulation continues to apply, so that the provisions relating to the original version of the Judgments Regulation also continue to apply.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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