
DRAFT STATUTORY INSTRUMENTS

2019 No.

**The Civil Jurisdiction and Judgments
(Amendment) (EU Exit) Regulations 2019**

PART 2

Amendment of primary legislation

Civil Jurisdiction and Judgments Act 1982

26. Before section 16, insert—

“Jurisdiction in consumer and employment matters

Scope of sections 15B to 15E

15A.—(1) Sections 15B to 15E make provision about the jurisdiction of courts in the United Kingdom—

- (a) in matters relating to consumer contracts where the consumer is domiciled in the United Kingdom;
- (b) in matters relating to individual contracts of employment.

(2) Sections 15B and 15C apply only if the subject-matter of the proceedings and the nature of the proceedings are within the scope of the Regulation as determined by Article 1 of the Regulation (whether or not the Regulation would have had effect before exit day in relation to the proceedings).

(3) Sections 15B to 15E do not apply to proceedings of a description listed in Schedule 5 or to proceedings in Scotland under an enactment which confers jurisdiction on a Scottish court in respect of a specific subject-matter on specific grounds.

Jurisdiction in relation to consumer contracts

15B.—(1) This section applies in relation to proceedings whose subject-matter is a matter relating to a consumer contract where the consumer is domiciled in the United Kingdom.

(2) The consumer may bring proceedings against the other party to the consumer contract—

- (a) where the other party to the consumer contract is domiciled in the United Kingdom, in the courts of the part of the United Kingdom in which the other party to the consumer contract is domiciled, or
- (b) in the courts for the place where the consumer is domiciled (regardless of the domicile of the other party to the consumer contract).

(3) Proceedings may be brought against the consumer by the other party to the consumer contract only in the courts of the part of the United Kingdom in which the consumer is domiciled.

(4) Subsections (2) and (3) are subject to rule 11 of Schedule 4 (and rule 14 of Schedule 4 has effect accordingly).

(5) Subsections (2) and (3) do not affect—

- (a) the right (under rule 5(c) of Schedule 4 or otherwise) to bring a counterclaim in the court in which, in accordance with subsection (2) or (3), the original claim is pending,
- (b) the operation of rule 3(e) or (h)(ii) of Schedule 4, or
- (c) the operation of any other rule of law which permits a person not domiciled in the United Kingdom to be sued in the courts of a part of the United Kingdom.

(6) Subsections (2) and (3) may be departed from only by an agreement—

- (a) which is entered into after the dispute has arisen,
- (b) which allows the consumer to bring proceedings in courts other than those indicated in this section, or
- (c) which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the United Kingdom and in the same part of the United Kingdom, and which confers jurisdiction on the courts of that part of the United Kingdom, provided that such an agreement is not contrary to the law of that part of the United Kingdom.

(7) For the purposes of this section, where a consumer enters into a consumer contract with a party who is not domiciled in the United Kingdom, the other party to the contract is deemed to be domiciled in a particular part of the United Kingdom if that party has a branch, agency or establishment in that part of the United Kingdom and the dispute arose out of the operations of that branch, agency or establishment.

Jurisdiction in relation to individual contracts of employment

15C.—(1) This section applies in relation to proceedings whose subject-matter is a matter relating to an individual contract of employment.

(2) The employer may be sued by the employee—

- (a) where the employer is domiciled in the United Kingdom, in the courts for the part of the United Kingdom in which the employer is domiciled,
- (b) in the courts for the place in the United Kingdom where or from where the employee habitually carries out the employee's work or last did so (regardless of the domicile of the employer), or
- (c) if the employee does not or did not habitually carry out the employee's work in any one part of the United Kingdom, in the courts for the place in the United Kingdom where the business which engaged the employee is situated (regardless of the domicile of the employer).

(3) If the employee is domiciled in the United Kingdom, the employer may only sue the employee in the part of the United Kingdom in which the employee is domiciled (regardless of the domicile of the employer).

(4) Subsections (2) and (3) are subject to rule 11 of Schedule 4 (and rule 14 of Schedule 4 has effect accordingly).

(5) Subsections (2) and (3) do not affect—

- (a) the right (under rule 5(c) of Schedule 4 or otherwise) to bring a counterclaim in the court in which, in accordance with subsection (2) or (3), the original claim is pending,
 - (b) the operation of rule 3(e) of Schedule 4,
 - (c) the operation of rule 5(a) of Schedule 4 so far as it permits an employer to be sued by an employee, or
 - (d) the operation of any other rule of law which permits a person not domiciled in the United Kingdom to be sued in the courts of a part of the United Kingdom.
- (6) Subsections (2) and (3) may be departed from only by an agreement which—
- (a) is entered into after the dispute has arisen, or
 - (b) allows the employee to bring proceedings in courts other than those indicated in this section.

(7) For the purposes of this section, where an employee enters into an individual contract of employment with an employer who is not domiciled in the United Kingdom, the employer is deemed to be domiciled in the relevant part of the United Kingdom if the employer has a branch, agency or other establishment in that part of the United Kingdom and the dispute arose from the operation of that branch, agency or establishment.

Further provision as to jurisdiction

15D.—(1) Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of section 15B(6) or 15C(6).

(2) Even if it would not otherwise have jurisdiction under section 15B or 15C, a court of a part of the United Kingdom before which a defendant enters an appearance has jurisdiction in those proceedings.

- (3) Subsection (2) does not apply where —
- (a) appearance was entered to contest the jurisdiction, or
 - (b) another court in the United Kingdom has exclusive jurisdiction by virtue of rule 11 of Schedule 4.

(4) Subsection (2) does not apply if the defendant is the consumer or employee in relation to the subject-matter of the proceedings, unless the defendant is informed by the court of—

- (a) the defendant's right to contest the jurisdiction, and
- (b) the consequences of entering or not entering an appearance.

(5) Subsection (6) applies where—

- (a) a defendant domiciled in the United Kingdom is sued in a court of a part of the United Kingdom other than the part in which the defendant is domiciled and does not enter an appearance, and
- (b) the subject-matter of the proceedings is a matter in relation to which section 15B or 15C applies.

(6) The court must—

- (a) declare of its own motion that it has no jurisdiction, unless it has jurisdiction by virtue of section 15B or 15C or a rule referred to in section 15B(4) or (5) or 15C(4) or (5);
- (b) stay the proceedings so long as it is not shown that—

- (i) the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable the defendant to arrange for the defendant's defence, or
- (ii) all necessary steps have been taken to this end.

(7) Application may be made to the courts of a part of the United Kingdom for such provisional, including protective, measures as may be available under the law of that part, even if, by virtue of section 15B or 15C or this section, the courts of another part of the United Kingdom have jurisdiction as to the substance of the matter.

Interpretation

15E.—(1) In sections 15A to 15D and this section—

“consumer”, in relation to a consumer contract, means a person who concludes the contract for a purpose which can be regarded as being outside the person's trade or profession;

“consumer contract” means—

- (a) a contract for the sale of goods on instalment credit terms,
- (b) a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods, or
- (c) a contract which has been concluded with a person who—
 - (i) pursues commercial or professional activities in the part of the United Kingdom in which the consumer is domiciled, or
 - (ii) by any means, directs such activities to that part or to other parts of the United Kingdom including that part,

and which falls within the scope of such activities,

but it does not include a contract of transport other than a contract which, for an inclusive price, provides for a combination of travel and accommodation or a contract of insurance,

“defendant” includes defender.

(2) In determining any question as to the meaning or effect of any provision contained in sections 15A to 15D and this section—

- (a) regard is to be had to any relevant principles laid down before exit day by the European Court in connection with Title II of the 1968 Convention or Chapter 2 of the Regulation and to any relevant decision of that court before exit day as to the meaning or effect of any provision of that Title or Chapter, and
- (b) without prejudice to the generality of paragraph (a), the expert reports relating to the 1968 Convention may be considered and are, so far as relevant, to be given such weight as is appropriate in the circumstances.”