



Civil Aviation Act 1982

1982 CHAPTER 16

PART III

REGULATION OF CIVIL AVIATION

Air navigation services

[^{F1}74A Enforcement of foreign judgments etc. in respect of route charges.

- (1) Subject to the following provisions of this section, where a relevant ^{M1}authority in a Contracting State has made a determination as to whether or not any sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or by some other person, that determination shall, in the United Kingdom, be enforceable or, as the case may be, recognised in accordance with the following provisions of this section, but not otherwise.
- (2) For the purposes of the enforcement in any part of the United Kingdom of any determination which is enforceable by Eurocontrol under this section, the provisions of sections 2, 3(1) and 5(2) and (3) of the Foreign Judgments (Reciprocal Enforcement) Act ^{M2}1933 (registration of judgments, rules of court and powers of court on application to set aside registration) shall apply, with the necessary modifications, in relation to the determination as they apply in relation to a judgment to which Part I of that Act applies; and accordingly, for the purposes of this section, in subsection (2) of section 5 of that Act—
 - (a) the reference to subsection (1) of that section shall have effect as a reference to subsection (7) below; and
 - (b) the reference to an appeal shall include a reference to an application for review of a determination.
- (3) On an application for the purpose made by any person against whom a determination registered by virtue of subsection (2) above may be enforced, the registration shall (subject to subsection (7) below) be set aside if the court to which the application to register is made is satisfied—
 - (a) that the determination is not a determination to which this section applies;

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- (b) that the determination was registered in contravention of any provision applied by subsection (2) above; or
 - (c) that, by virtue of any of the following provisions of this section, the determination is not to be enforced in the part of the United Kingdom in which it is sought to enforce it.
- (4) Subject to subsection (7) below, a determination in respect of any sum by a relevant authority in a Contracting State shall not under this section be enforced or recognised in a part of the United Kingdom if—
- (a) that Contracting State is not the country, or one of the countries, in which, under subsection (5) below, proceedings in respect of that sum should have been brought; or
 - (b) the determination is not final; or
 - (c) the determination is manifestly contrary to public policy in the part of the United Kingdom in which it is sought to enforce the determination or, as the case may be, in which recognition of the determination is sought; or
 - (d) the person against whom the proceedings resulting in the determination were brought did not (notwithstanding that process may have been duly served on him in the Contracting State in which those proceedings were brought) receive notice of the proceedings in sufficient time to enable him to defend them or, as the case may require, to apply for the proceedings to be reviewed; or
 - (e) proceedings relating to the same sum have been brought previously, and are pending, in any part of the United Kingdom; or
 - (f) the determination is incompatible with the judgment of any court in any part of the United Kingdom; or
 - (g) the determination—
 - (i) involved the application of rules of private international law to a question concerning the status or legal capacity of natural persons, or concerning rights in property arising out of matrimonial relationships or concerning wills or succession (being rules different from the corresponding rules of private international law applicable in the part of the United Kingdom in which it is sought to enforce the determination, or as the case may be, in which recognition of the determination is sought), and
 - (ii) was different from the determination which would have been made if those corresponding rules had been applied.
- (5) For the purposes of this section proceedings in respect of a sum payable to Eurocontrol must be brought against the person liable to pay the sum—
- (a) in the Contracting State (if any) in which that person's residence or, as the case may be, his registered office is situated;
 - (b) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State, in any Contracting State in which he has a place of business;
 - (c) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State and he has no place of business in any Contracting State, in any Contracting State in which he has assets;
 - (d) if that person's residence or, as the case may be, his registered office is not situated in a Contracting State and he has neither a place of business nor any assets in any Contracting State, in the country in which Eurocontrol for the time being has its headquarters.

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- (6) For the purposes of this section a determination by a relevant authority in a Contracting State shall be final if neither an appeal from nor an application for review of that determination is pending in that State and it is not possible, for any of the following reasons, for such an appeal to be brought or such an application to be made, that is to say—
- (a) no appeal or review is provided for in that State in respect of the determination, being a determination made by a court or tribunal;
 - (b) the time within which an appeal must be brought, or an application for review must be made, has expired;
 - (c) an appeal which has been brought, or an application for review which has been made, has been withdrawn; or
 - (d) the determination has been confirmed by, or made in pursuance of a direction contained in, a determination which was made by a relevant authority and is itself final.
- (7) If, on an application to set aside the registration by virtue of subsection (2) above of any determination, the applicant satisfies the court to which the application to register is made that the determination is not final, the court may, on such terms as it may think fit, either—
- (a) set aside the registration; or
 - (b) adjourn the application to set aside the registration until such time as the determination has become final,
- but nothing in this section shall require that court to take either of these courses where there is no other ground for setting aside the registration and the court is not satisfied that the applicant intends to continue with any appeal or application for review which is pending or, as the case may be, to bring any appeal or make any such application which it is possible for him to bring or make in respect of the determination.
- (8) In this section—
- “Contracting State” means a country designated in an Order in Council which has been laid before Parliament as a party to the Multilateral Agreement relating to Route Charges signed at Brussels on 12th February 1981 at the Diplomatic Conference on the Protocol amending the Eurocontrol International Convention relating to Co-operation for the Safety of Air Navigation of 13th December 1960;
- “relevant authority”, in relation to a Contracting State, means—
- (a) any court or tribunal which, under the law of the State, has jurisdiction to determine questions as to whether or not a sum is due to Eurocontrol in respect of air navigation services provided by Eurocontrol or some other person;
 - (b) any administrative authority which, under that law, has jurisdiction to make, or is otherwise authorised to make, determinations in respect of such questions, being determinations which in that State are subject to appeal to, or review by, a court or tribunal;
 - (c) any court or tribunal which, under that law, has jurisdiction to determine any appeal from, or carry out any review of, a determination made in respect of any such question by another relevant authority.
- (9) This section shall not affect the enforceability or recognition of any determination made before the coming into force of section 1 of the Civil Aviation (Eurocontrol) Act 1983.]

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Textual Amendments

F1 [S. 74A](#) inserted by [Civil Aviation \(Eurocontrol\) Act 1983 \(c. 11, SIF 9\)](#), **s. 1**

Marginal Citations

M1 [1982 c.16\(9\)](#).

M2 [1933 c.13\(45:3\)](#).

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