



Civil Jurisdiction and Judgments Act 1982

1982 CHAPTER 27

PART I

IMPLEMENTATION OF THE CONVENTIONS

Main implementing provisions

1 Interpretation of references to the Conventions and Contracting States.

(1) In this Act—

“the 1968 Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocol annexed to that Convention), signed at Brussels on 27th September 1968;

“the 1971 Protocol” means the Protocol on the interpretation of the 1968 Convention by the European Court, signed at Luxembourg on 3rd June 1971;

“the Accession Convention” means the Convention on the accession to the 1968 Convention and the 1971 Protocol of Denmark, the Republic of Ireland and the United Kingdom, signed at Luxembourg on 9th October 1978;

[^{F1}“the 1982 Accession Convention” means the Convention on the accession of the Hellenic Republic to the 1968 convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention, signed at Luxembourg on 25th October 1982;]

[^{F2} “the 1989 Accession Convention” means the Convention on the accession of the kingdom of Spain and the Portuguese Republic to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention and the 1982 Accession Convention, signed at Donostia-San Sebastian on 26th May 1989]

[^{F3}“the 1996 Accession Convention” means the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention, the 1982 Accession

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Convention and the 1989 Accession Convention, signed at Brussels on 29th November 1996,]

[^{F4}[^{F5} “the Brussels Conventions”] means the 1968 Convention, the 1971 Protocol, the Accession Convention, the 1982 Accession Convention [^{F6}, the 1989 Accession Convention and the 1996 Accession Convention].]

[^{F7}“the Lugano Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocols annexed to that Convention) opened for signature at Lugano on 16th September 1988 and signed by the United Kingdom on 18th September 1989.]

[^{F8}“the Regulation” means Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as amended from time to time and as applied by the Agreement made on 19th 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 at p62).]

(2) In this Act, unless the context otherwise requires—

[^{F9}(a) references to, or to any provision of, the 1968 Convention or the 1971 Protocol are references to that Convention, Protocol or provision as amended by the Accession Convention and the 1982 Accession Convention [^{F10}, the 1989 Accession Convention and the 1996 Accession Convention]; and]

[^{F11}(aa) references to, or to any provision of, the Lugano Convention are references to that Convention as amended on the accession to it of Poland; and]

[^{F12}(b) any reference in any provision to a numbered Article without more is a reference—

(i) to the Article so numbered of the 1968 Convention, in so far as the provision applies in relation to that Convention, and

(ii) to the Article so numbered of the Lugano Convention, in so far as the provision applies in relation to that Convention,

and any reference to a sub-division of a numbered Article shall be construed accordingly.]

[^{F13}(3) [^{F14}In this Act—

“Contracting State”, without more, in any provision means—

(a) in the application of the provision in relation to the Brussels Conventions, a Brussels Contracting State; and

(b) in the application of the provision in relation to the Lugano Convention, a Lugano Contracting State;]

[^{F15}“Brussels Contracting State” means a state which is one of the original parties to the 1968 Convention or one of the parties acceding to that Convention under the Accession Convention, or under the 1982 Accession Convention, or under the 1989 Accession Convention, but only with respect to any territory—

(a) to which the Brussels Conventions apply; and

(b) which is excluded from the scope of the Regulation pursuant to Article 299 of the Treaty establishing the European Community;]

[^{F16}[^{F17} “Lugano Contracting State” means—

(a) one of the original parties to the Lugano Convention, that is to say Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, the Hellenic Republic, Iceland, the Republic of Ireland,

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- Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom; or
- (b) a party who has subsequently acceded to that Convention, that is to say, Poland]

being a State in relation to which that Convention has taken effect in accordance with paragraph 3 or 4 of Article 61.]

[^{F18}“Regulation State” in any provision, in the application of that provision in relation to the Regulation, means a Member State.]]

- (4) Any question arising as to whether it is the Regulation, any of the Brussels Conventions, or the Lugano Convention which applies in the circumstances of a particular case shall be determined as follows—
- (a) in accordance with Article 54B of the Lugano Convention (which determines the relationship between the Brussels Conventions and the Lugano Convention); and
- (b) in accordance with Article 68 of the Regulation (which determines the relationship between the Brussels Conventions and the Regulation).

Textual Amendments

- F1** Definition in s. 1(1) inserted by [S.I. 1989/1346, art. 3](#)
- F2** Definition in s. 1(1) inserted (1.10.1991) by [S.I. 1990/2591, art. 3](#).
- F3** S. 1(1): definition of "the 1996 Accession Convention" inserted (1.1.2001) by [The Civil Jurisdiction and Judgments Act 1982 \(Amendment\) Order 2000 \(S.I. 2000/1824\), arts. 1, 3\(a\)](#)
- F4** Definition in s. 1(1) substituted (1.10.1991) by [S.I. 1990/2591, art. 4](#)
- F5** Words in s. 1(1) substituted (1.5.1992) by virtue of [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\), s. 2\(2\)](#), (with s. 4); [S.I. 1992/745, art. 2](#)
- F6** S. 1(1): words in definition of "the Brussels Conventions" substituted (1.1.2001) by [The Civil Jurisdiction and Judgments Act 1982 \(Amendment\) Order 2000 \(S.I. 2000/1824\), arts. 1, 3\(b\)](#)
- F7** Words in s. 1(1) inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\), s. 2\(3\)](#), (with s. 4); [S.I. 1992/745, art. 2](#)
- F8** S. 1(1): definition of "the Regulation" substituted (1.7.2007) by [The Civil Jurisdiction and Judgments Regulations 2007 \(S.I. 2007/1655\), reg. 2\(2\)](#)
- F9** S. 1(2)(a) substituted (1.10.1991) by [S.I. 1990/2591, art. 5](#)
- F10** Words in s. 1(2)(a) substituted (1.1.2001) by [The Civil Jurisdiction and Judgments Act 1982 \(Amendment\) Order 2000 \(S.I. 2000/1824\), arts. 1, 4](#)
- F11** S. 1(2)(aa) inserted (1.8.2000) by [The Civil Jurisdiction and Judgments Act 1982 \(Amendment\) Order 2000 \(S.I. 2000/1824\), arts. 1, 9](#)
- F12** S. 1(2)(b) substituted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\), s. 2\(4\)](#), (with s. 4); [S.I. 1992/745, art. 2](#)
- F13** S. 1(3) substituted (1.10.1991) by [S.I. 1990/2591, art. 6](#)
- F14** Words in s. 1(3) substituted (1.5.1992) by virtue of [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\), s. 2\(5\)](#), (with s. 4); [S.I. 1992/745, art. 2](#)
- F15** S. 1(3): definition of "Brussels Contracting State" substituted (1.7.2007) by [The Civil Jurisdiction and Judgments Regulations 2007 \(S.I. 2007/1655\), reg. 2\(3\)\(a\)](#)
- F16** Definition in s. 1(3) added (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\), s. 2\(6\)](#) (with s. 4); [S.I. 1992/745, art. 2](#)
- F17** Words in s. 1(3) substituted (1.8.2000) by [The Civil Jurisdiction and Judgments Act 1982 \(Amendment\) Order 2000 \(S.I. 2000/1824\), arts. 1, 10](#)
- F18** S. 1(3): definition of "Regulation State" substituted (1.7.2007) by [The Civil Jurisdiction and Judgments Regulations 2007 \(S.I. 2007/1655\), reg. 2\(3\)\(b\)](#)

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2 The [F19Brussels Conventions] to have the force of law.

(1) The [F19Brussels Conventions] shall have the force of law in the United Kingdom, and judicial notice shall be taken of them.

[F20(2) For convenience of reference there are set out in Schedules 1, 2, 3, 3A [F21, 3B and 3C] respectively the English texts of—

- (a) the 1968 Convention as amended by Titles II and III of the Accession Convention and by Titles II and III of the 1982 Accession Convention [F22. . . by Titles II and III of, and Annex I(d) to, the 1989 Accession Convention [F23and by Titles II and III of the 1996 Accession Convention];
- (b) the 1971 Protocol as amended by Title IV of the Accession Convention, by Title IV of the 1982 Accession Convention [F22. . . by Title IV of the 1989 Accession Convention [F24and by Title IV of the 1996 Accession Convention];
- (c) Titles V and VI of the Accession Convention (transitional and final provisions) as amended by Title V of the 1989 Accession Convention;
- (d) Titles V and VI of the 1982 Accession Convention (transitional and final provisions); and
- (e) Titles VI and VII of the 1989 Accession Convention (transitional and final provisions),
- [Titles V and VI of the 1996 Accession Convention (transitional and final provisions),]

being texts prepared from the authentic English texts referred to in Articles 37 and 41 of the Accession Convention, in Article 17 of the 1982 Accession Convention [F26, in Article 34 of the 1989 Accession Convention and in Article 18 of the 1996 Accession Convention].]

Textual Amendments

- F19** Words in s. 2 substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para.1** (with s. 4); S.I. 1992/745, **art.2**
- F20** S. 2(2) substituted (1.10.1991) by S.I. 1990/2591, **art. 7**
- F21** Words in s. 2(2) substituted (1.1.2001) by The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), **arts. 1, 6(a)**
- F22** Words in s. 2(2)(a)(b) deleted (1.1.2001) by virtue of The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), **arts. 1, 6(b)**
- F23** Words in s. 2(2)(a) inserted (1.1.2001) by The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), **arts. 1, 6(c)**
- F24** Words in s. 2(2)(b) inserted (1.1.2001) by The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), **arts. 1, 6(d)**
- F25** S. 2(2)(f) inserted (1.1.2001) by The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), **arts. 1, 6(e)**
- F26** Words in s. 2(2) substituted (1.1.2001) by virtue of The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), **arts. 1, 6(f)**

3 Interpretation of the [F27Brussels Conventions].

(1) Any question as to the meaning or effect of any provision of the [F27Brussels Conventions] shall, if not referred to the European Court in accordance with the 1971 Protocol, be determined in accordance with the principles laid down by and any relevant decision of the European Court.

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- (2) Judicial notice shall be taken of any decision of, or expression of opinion by, the European Court on any such question.
- (3) Without prejudice to the generality of subsection (1), the following reports (which are reproduced in the Official Journal of the Communities), namely—
- (a) the ^{M1}reports by Mr. P. Jenard on the 1968 Convention and the 1971 Protocol; and
 - (b) the ^{M2}report by Professor Peter Schlosser on the Accession Convention [^{F28}; and
 - (c) the report by Professor Demetrios I. Evrigenis and Professor K. D. Kerameus on the 1982 Accession Convention][^{F29}; and
 - (d) the report by Mr. Martinho de Almeida Cruz, Mr. Manuel Desantes Real and Mr. P. Jenard on the 1989 Accession Convention,]
- may be considered in ascertaining the meaning or effect of any provision of the [^{F27}Brussels Conventions] and shall be given such weight as is appropriate in the circumstances.

Textual Amendments

- F27** Words in s. 3 substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para.1 (with s. 4); S.I. 1992/745, art. 2
- F28** S. 3(3)(c) and preceding word inserted by S.I. 1989/1346, art. 8
- F29** S. 3(3)(d) and preceding word inserted (1.10.1991) by S.I. 1990/2591, art. 8

Marginal Citations

- M1** O.J.1979 No. C59/1 and 66.
- M2** O.J.1979 No. C59/71.

[^{F30}3A The Lugano Convention to have the force of law.

- (1) The Lugano Convention shall have the force of law in the United Kingdom, and judicial notice shall be taken of it.
- (2) For convenience of reference there is set out in Schedule 3C the English text of the Lugano Convention [^{F31}as amended on the accession of Poland to that Convention].]

Textual Amendments

- F30** Ss. 3A, 3B inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 1(1), (with s. 4); S.I. 1992/745, art. 2
- F31** Words in s. 3A(2) inserted (1.8.2000) by The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), arts. 1, 11

[^{F32}3B Interpretation of the Lugano Convention.

- (1) In determining any question as to the meaning or effect of a provision of the Lugano Convention, a court in the United Kingdom shall, in accordance with Protocol No. 2 to that Convention, take account of any principles laid down in any relevant decision delivered by a court of any other Lugano Contracting State concerning provisions of the Convention.

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- (2) Without prejudice to any practice of the courts as to the matters which may be considered apart from this section, the report on the Lugano Convention by Mr. P. Jenard and Mr. G. Möller (which is reproduced in the Official Journal of the Communities of 28th July 1990) may be considered in ascertaining the meaning or effect of any provision of the Convention and shall be given such weight as is appropriate in the circumstances.]

Textual Amendments

F32 Ss. 3A, 3B inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 1(1), (with s. 4); [S.I. 1992/745](#), art. 2

Supplementary provisions as to recognition and enforcement of judgments

4 Enforcement of judgments other than maintenance orders.

- (1) A judgment, other than a maintenance order, which is the subject of an application under Article 31 [^{F33}of the 1968 Convention or of the Lugano Convention] for its enforcement in any part of the United Kingdom shall, to the extent that its enforcement is authorised by the appropriate court, be registered in the prescribed manner in that court.

In this subsection “the appropriate court” means the court to which the application is made in pursuance of Article 32 (that is to say, the High Court or the Court of Session).

- (2) Where a judgment is registered under this section, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.
- (3) A judgment registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering 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 registering court and had (where relevant) been entered.
- (4) Subsection (3) is subject to Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under this section may be enforced.

Textual Amendments

F33 Words in s. 4(1) inserted (1.5.1992) by [Civil Jurisdiction and Judgment Act 1991 \(c. 12, SIF 45: 3\)](#), s. 3, [Sch. 2 para.2](#) (with s. 4); [S.I. 1992/745](#), art.2

Modifications etc. (not altering text)

C1 S. 4 applied (with modifications) (1.4.1993) by [S.I. 1993/604](#), art. 2.

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[^{F34}4A Enforcement of judgments, other than maintenance orders, under the Lugano Convention

- (1) Where a judgment, other than a maintenance order, is registered under the Lugano Convention, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.
- (2) A judgment other than a maintenance order registered under the Lugano Convention shall, for the purposes of its enforcement, be of the same force and effect, the registering 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 registering court and had (where relevant) been entered.
- (3) Subsection (2) is subject to Article 47(3) of the Lugano Convention (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 (interest on registered judgments) and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under the Lugano Convention may be enforced.]

Textual Amendments

F34 S. 4A inserted (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 5\(2\)](#) (with [reg. 48](#))

Modifications etc. (not altering text)

C2 S. 4A applied (with modifications) (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 47\(2\)-\(4\)](#) (with [reg. 48](#))

5 Recognition and enforcement of maintenance orders.

- (1) The function of transmitting to the appropriate court an application under Article 31 [^{F35}of the 1968 Convention or of the Lugano Convention] for the recognition or enforcement in the United Kingdom of a maintenance order shall be discharged—
 - [^{F36}(a) as respects England and Wales and Northern Ireland, by the Lord Chancellor; and
 - (b) as respects Scotland, by the Secretary of State.]

In this subsection “the appropriate court” means the magistrates’ court or sheriff court having jurisdiction in the matter in accordance with the second paragraph of Article 32.
- (2) Such an application shall be determined in the first instance by the prescribed officer of that court.
- (3) Where on such an application the enforcement of the order is authorised to any extent, the order shall to that extent be registered in the prescribed manner in that court.
- (4) A maintenance order registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its

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enforcement may be taken, as if the order had been originally made by the registering court.

- (5) Subsection (4) is subject to Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under this section may be enforced.

[^{F37}(5A) A maintenance order which by virtue of this section is enforceable by a magistrates' court in England and Wales [^{F38}shall, subject to the modifications of sections 76 and 93 of the Magistrates' Courts Act 1980 specified in subsections (5B) and (5C) below, be enforceable] in the same manner as a magistrates' court maintenance order made by that court.

In this subsection "magistrates' court maintenance order" has the same meaning as in section 150(1) of the ^{M3}Magistrates' Courts Act 1980.]

[^{F39}(5B) Section 76 (enforcement of sums adjudged to be paid) shall have effect as if for subsections (4) to (6) there were substituted the following subsections—

“(4) Where proceedings are brought for the enforcement of a magistrates' court maintenance order under this section, the court may vary the order by exercising one of its powers under subsection (5) below.

(5) The powers of the court are—

- (a) the power to order that payments under the order be made directly to [^{F40}the designated officer for the court or for any other magistrates' court];
- (b) the power to order that payments under the order be made to [^{F40}the designated officer for the court or for any other magistrates' court] by such method of payment falling within section 59(6) above (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under the ^{M4}Attachment of Earnings Act 1971 to secure payments under the order.

(6) In deciding which of the powers under subsection (5) above it is to exercise, the court shall have regard to any representations made by the debtor (within the meaning of section 59 above).

(7) Subsection (4) of section 59 above (power of court to require debtor to open account) shall apply for the purposes of subsection (5) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 76(5) below, and”

(5C) In section 93 (complaint for arrears), subsection (6) (court not to impose imprisonment in certain circumstances) shall have effect as if for paragraph (b) there were substituted—

“(b) if the court is of the opinion that it is appropriate—

- (i) to make an attachment of earnings order; or
- (ii) to exercise its power under paragraph (b) of section 76(5) above.”]

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(6) A maintenance order which by virtue of this section is enforceable by a magistrates' court in [^{F41}England and Wales or] Northern Ireland [^{F42}shall, subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 specified in subsection (6A) below, be enforceable][^{F43}as an order made by that court to which that article applies].

[^{F44}(6A) Article 98 (enforcement of sums adjudged to be paid) shall have effect—

(a) as if for paragraph (7)(a) there were substituted the following paragraph—

“(a) “if the court is of the opinion that it is appropriate—

(i) to make an attachment of earnings order; or

(ii) to exercise its power under paragraph (8C)(b);”

(b) as if for paragraphs (8B) to (8D) there were substituted the following paragraphs—

“(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under paragraph (8C).

(8C) The powers mentioned in paragraph (8B) are—

(a) the power to order that payments under the order be made directly to the collecting officer;

(b) the power to order that payments under the order be made to the collecting officer by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;

(c) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(8D) In deciding which of the powers under paragraph (8C) is to be exercised, the court or, as the case may be, a resident magistrate shall have regard to any representations made by the debtor (within the meaning of Article 85).

(8E) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (8C) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under sub-paragraph (b) of Article 98(8C), and””]

(7) The payer under a maintenance order registered under this section in a magistrates' court in England and Wales or Northern Ireland shall give notice of any change of address to the [^{F45}proper officer] of that court.

A person who without reasonable excuse fails to comply with this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F46}level 2 on the standard scale].

[^{F47}(8) In subsection (7) “proper officer” means—

(a) in relation to a magistrates' court in England and Wales, the [^{F48}designated officer] for the court; and

(b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.]

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Textual Amendments

- F35** Words in s. 5(1) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, 5(3), **Sch. 2 para. 2** (with s. 4); S.I. 1992/745, **art. 2**
- F36** S. 5(1)(a)(b) substituted (1.4.1992) by S.I. 1992/709, **art. 4(7)** (with art. 5(2))
- F37** S. 5(5A) inserted (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33, Sch. 2 para. 89(2), Sch. 3 paras. 1, **6**
- F38** Words in s. 5(5A) substituted (E.W.) (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17), s. 10, **Sch. 1 para. 21(1)**; S.I. 1992/455, **art. 2**
- F39** S. 5(5B)(5C) inserted (E.W.) (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17), s. 10, **Sch. 1 para. 21(2)**; S.I. 1992/455, **art. 2**
- F40** Words in s. 5(5B) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(01), **Sch. 8 para. 268(2)**; S.I. 2005/910, art. 3(y)
- F41** Words repealed (E.W.) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33, Sch. 2 para. 89(3), Sch. 3 paras. 1, **6**
- F42** Words in s. 5(6) substituted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), arts. 1(3), 11, **Sch. 1 para. 16(a)**; S.R. 1996/454, **art. 3**
- F43** Words in s. 5(6) substituted (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 116**; S.R. 1996/297, **art. 2(2)**
- F44** S. 5(6A) inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), arts. 1(3), 11, **Sch. 1 para. 16(b)**; S.R. 1996/454, **art. 3**
- F45** Words in s. 5(7) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 122(1)(3)**; S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F46** Words substituted: (E.W.) by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46; (S.) by Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G; and (N.I.) by S.I. 1984/703 (N.I. 3), arts. 5, 6
- F47** S. 5(8) inserted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 122(1)(4)**; S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F48** Words in s. 5(8) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 110(01), **Sch. 8 para. 268(3)**; S.I. 2005/910, art. 3(y)

Modifications etc. (not altering text)

- C3** S. 5 applied (with modifications) (1.4.1993) by S.I. 1993/604, **art. 3**.
- C4** S. 5(1): functions of the Secretary of State as respects England and Wales transferred (1.4.1992) to the Lord Chancellor by S.I. 1992/709, **art. 4(6)(a)(b)** (with art. 5(2))

Marginal Citations

- M3** 1980 c.43
- M4** 1971 c. 32.

VALID FROM 01/01/2010

[^{F49}5A Recognition and enforcement of maintenance orders under the Lugano Convention

- (1) The Secretary of State's function (under Article 39 and Annex II of the Lugano Convention) of transmitting to the appropriate court an application for the recognition or enforcement in the United Kingdom of a maintenance order (made under Article 38 of the Lugano Convention) shall be discharged—

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) as respects England and Wales and Northern Ireland, by the Lord Chancellor;
and
- (b) as respects Scotland, by the Scottish Ministers.

In this subsection “the appropriate court” means the magistrates' court or sheriff court having jurisdiction in the matter in accordance with the second paragraph of Article 39.

- (2) Such an application shall be determined in the first instance by the prescribed officer of the court having jurisdiction in the matter.
- (3) A maintenance order registered under the Lugano Convention shall, for the purposes of its enforcement, be of the same force and effect, the registering 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 order had been made by the registering court.
- (4) Subsection (3) is subject to Article 47 of the Lugano Convention (restriction on enforcement where appeal pending or time for appeal unexpired), to subsection (6) and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under the Lugano Convention may be enforced.
- (5) A maintenance order which by virtue of the Lugano Convention is enforceable by a magistrates' court in England and Wales shall, subject to the modifications of sections 76 and 93 of the Magistrates' Courts Act 1980 specified in sections 5(5B) and 5(5C) of the Act, be enforceable in the same manner as a magistrates' court maintenance order made by that court.

In this subsection “magistrates' court maintenance order” has the same meaning as in section 150(1) of the Magistrates' Courts Act 1980.

- (6) A maintenance order which by virtue of the Lugano Convention is enforceable by a magistrates' court in Northern Ireland shall, subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 specified in section 5(6A) of this Act, be enforceable as an order made by that court to which that Article applies.
- (7) The payer under a maintenance order registered under the Lugano Convention in a magistrates' court in England and Wales or Northern Ireland shall give notice of any change of address to the proper officer of that court.
- (8) A person who without reasonable excuse fails to comply with subsection (7) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (9) In subsection (7) “proper officer” means—
 - (a) in relation to a magistrates' court in England and Wales, the designated officer; and
 - (b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.]

Textual Amendments

- F49** S. 5A inserted (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 6\(2\)](#) (with [reg. 48](#))

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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Modifications etc. (not altering text)

- C5** S. 5A applied (with modifications) (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 47\(2\)-\(4\)](#) (with [reg. 48](#))

6 Appeals under Article 37, second paragraph and Article 41.

- (1) The single further appeal on a point of law referred to [^{F50}in the 1968 Convention and the Lugano Convention] in Article 37, second paragraph and Article 41 in relation to the recognition or enforcement of a judgment other than a maintenance order lies—
- in England and Wales or Northern Ireland, to the Court of Appeal or to the [^{F51}Supreme Court] in accordance with Part II of the ^{M5}Administration of Justice Act 1969 (appeals direct from the High Court to the [^{F51}Supreme Court]);
 - in Scotland, to the Inner House of the Court of Session.
- (2) Paragraph (a) of subsection (1) has effect notwithstanding section 15(2) of the Administration of Justice Act 1969 (exclusion of direct appeal to [^{F52}the Supreme Court] in cases where no appeal to [^{F52}the Supreme Court] lies from a decision of the Court of Appeal).
- (3) The single further appeal on a point of law referred to [^{F53}in each of those Conventions] in Article 37, second paragraph and Article 41 in relation to the recognition or enforcement of a maintenance order lies—
- in England and Wales, [^{F54}to a county court in accordance with section 111A] of the ^{M6}Magistrates' Courts Act 1980;
 - in Scotland, to the Inner House of the Court of Session;
 - in Northern Ireland, to the Court of Appeal.

Textual Amendments

- F50** Words in s. 6(1) inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para 3\(a\)](#) (with s. 4); S.I. 1992/745, [art.2](#)
- F51** Words in s. 6(1)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148(1), [Sch. 9 para. 39\(a\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F52** Words in s. 6(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148(1), [Sch. 9 para. 39\(b\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F53** Words in s. 6(3) inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para. 3\(b\)](#) (with s. 4); S.I. 1992/745, [art.2](#)
- F54** Words in s. 6(3)(a) substituted (6.4.2009) by [The Access to Justice Act 1999 \(Destination of Appeals\) \(Family Proceedings\) Order 2009 \(S.I. 2009/871\)](#), [art. 5](#) (with [art. 14](#))

Modifications etc. (not altering text)

- C6** S. 6(1)(2) applied (with modifications) (1.4.1993) by S.I. 1993/604, [art. 2\(1\)](#).
- C7** S. 6(3) applied (1.4.1993) by S.I. 1993/604, [art. 3\(1\)](#).

Marginal Citations

- M5** 1969 c. 58.
- M6** 1980 c. 43.

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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VALID FROM 01/01/2010

[^{F55}6A Appeals under Article 44 and Annex IV of the Lugano Convention

- (1) The single further appeal on a point of law referred to in Article 44 and Annex IV of the Lugano Convention in relation to the recognition or enforcement of a judgment other than a maintenance order lies—
 - (a) in England and Wales or Northern Ireland, to the Court of Appeal or to the Supreme Court in accordance with Part II of the Administration of Justice Act 1969 (appeals direct from the High Court to the Supreme Court);
 - (b) in Scotland, to the Inner House of the Court of Session.
- (2) Paragraph (a) of subsection (1) has effect notwithstanding section 15(2) of the Administration of Justice Act 1969 (exclusion of direct appeal to the Supreme Court in cases where no appeal to that House lies from a decision of the Court of Appeal).
- (3) The single further appeal on a point of law referred to in Article 44 and Annex IV of the Lugano Convention in relation to the recognition or enforcement of a maintenance order lies—
 - (a) in England and Wales, to a county court in accordance with section 111A of the Magistrates' Courts Act 1980;
 - (b) in Scotland, to the Inner House of the Court of Session;
 - (c) in Northern Ireland, to the Court of Appeal.]

Textual Amendments

F55 S. 6A inserted (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 7\(3\)](#) (with [reg. 48](#))

Modifications etc. (not altering text)

C8 S. 6A applied (with modifications) (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 47\(2\)-\(4\)](#) (with [reg. 48](#))

7 Interest on registered judgments.

- (1) Subject to subsection (4), where in connection with an application for registration of a judgment under section 4 or 5 the applicant shows—
 - (a) that the judgment provides for the payment of a sum of money; and
 - (b) that in accordance with the law of the Contracting State in which the judgment was given interest on that sum is recoverable under the judgment from a particular date or time,
the rate of interest and the date or time from which it is so recoverable shall be registered with the judgment and, subject to any provision made under subsection (2), the debt resulting, apart from section 4(2), from the registration of the judgment shall carry interest in accordance with the registered particulars.
- (2) Provision may be made by rules of court as to the manner in which and the periods by reference to which any interest payable by virtue of subsection (1) is to be calculated

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and paid, including provision for such interest to cease to accrue as from a prescribed date.

- (3) Costs or expenses recoverable by virtue of section 4(2) shall carry interest as if they were the subject of an order for the payment of costs or expenses made by the registering court on the date of registration.
- (4) Interest on arrears of sums payable under a maintenance order registered under section 5 in a magistrates' court in England and Wales or Northern Ireland shall not be recoverable in that court, but without prejudice to the operation in relation to any such order of section 2A of the ^{M7}Maintenance Orders Act 1958 or section 11A of the ^{M8}Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (which enable interest to be recovered if the order is re-registered for enforcement in the High Court).
- (5) Except as mentioned in subsection (4), debts under judgments registered under section 4 or 5 shall carry interest only as provided by this section.

Modifications etc. (not altering text)

- C9** S. 7(1)-(3)(5) applied (with modifications) (1.4.1993) by [S.I. 1993/604, art. 2\(1\)](#).
S. 7(1)(2)(4)(5) applied (1.4.1993) by [S.I. 1993/604, art. 3\(1\)](#).

Marginal Citations

- M7** 1958 c. 39.
M8 1966 c. 35 (N.I.)

8 Currency of payment under registered maintenance orders.

- (1) Sums payable in the United Kingdom under a maintenance order by virtue of its registration under section 5, including any arrears so payable, shall be paid in the currency of the United Kingdom.
- (2) Where the order is expressed in any other currency, the amounts shall be converted on the basis of the exchange rate prevailing on the date of registration of the order.
- (3) For the purposes of this section, a written certificate purporting to be signed by an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be evidence, and in Scotland sufficient evidence, of the facts stated.

Modifications etc. (not altering text)

- C10** S. 8 applied (1.4.1993) by [S.I. 1993/604, art. 3\(1\)](#).

Other supplementary provisions

9 Provisions supplementary to Title VII of 1968 Convention.

- (1) The provisions of Title VII of the 1968 Convention [^{F56}and, apart from Article 54B, of Title VII of the Lugano Convention] (relationship between [^{F57}the Convention in question] and other conventions to which Contracting States are or may become parties) shall have effect in relation to—

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- (a) any statutory provision, whenever passed or made, implementing any such other convention in the United Kingdom; and
 - (b) any rule of law so far as it has the effect of so implementing any such other convention,
- as they have effect in relation to that other convention itself.

^{F58}(1A)

- (2) Her Majesty may by Order in Council declare a provision of a convention entered into by the United Kingdom to be a provision whereby the United Kingdom assumed an obligation of a kind provided for in Article 59 (which allows a Contracting State to agree with a third State to withhold recognition in certain cases from a judgment given by a court in another Contracting State which took jurisdiction on one of the grounds mentioned in the second paragraph of Article 3).

Textual Amendments

- F56** Words in s. 9(1) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 4(a)** (with s. 4); S.I. 1992/745, **art. 2**
- F57** Words in s. 9(1) substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 4(b)** (with s. 4); S.I. 1992/745, **art. 2**
- F58** S. 9(1A) omitted (25.1.2002) by virtue of S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 2**

10 Allocation within U.K. of jurisdiction with respect to trusts and consumer contracts.

- (1) The provisions of this section have effect for the purpose of allocating within the United Kingdom jurisdiction in certain proceedings in respect of which the 1968 Convention [^{F59}or the Lugano Convention] confers jurisdiction on the courts of the United Kingdom generally and to which section 16 does not apply.
- (2) Any proceedings which by virtue of Article 5(6) (trusts) are brought in the United Kingdom shall be brought in the courts of the part of the United Kingdom in which the trust is domiciled.
- (3) Any proceedings which by virtue of the first paragraph of Article 14 (consumer contracts) are brought in the United Kingdom by a consumer on the ground that he is himself domiciled there shall be brought in the courts of the part of the United Kingdom in which he is domiciled.

Textual Amendments

- F59** Words in s. 10(1) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45: 3), s. 3, **Sch. 2 para 5** (with s. 4); S.I. 1992/745, **art. 2**

11 Proof and admissibility of certain judgments and related documents.

- (1) For the purposes of the 1968 Convention [^{F60}and the Lugano Convention]—
 - (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a Contracting State other than the United Kingdom shall

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- without further proof be deemed to be a true copy, unless the contrary is shown; and
- (b) the original or a copy of any such document as is mentioned in Article 46(2) or 47 (supporting documents to be produced by a party seeking recognition or enforcement of a judgment) shall be evidence, and in Scotland sufficient evidence, of any matter to which it relates.
- (2) A document purporting to be a copy of a judgment given by any such court as is mentioned in subsection (1)(a) is duly authenticated for the purposes of this section if it purports—
- (a) to bear the seal of that court; or
- (b) to be certified by any person in his capacity as a judge or officer of that court to be a true copy of a judgment given by that court.
- (3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible apart from this section.

Textual Amendments

F60 Words in s. 11(1) inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para 6](#) (with s. 4); [S.I. 1992/745](#), [art.2](#)

Modifications etc. (not altering text)

C11 [S. 11](#) applied (with modifications) (1.4.1993) by [S.I. 1993/604](#), [art. 4](#).

VALID FROM 01/01/2010

[^{F61} 11A Proof and admissibility of certain judgments and related documents for the purposes of the Lugano Convention

- (1) For the purposes of the Lugano Convention—
- (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a State bound by the Lugano Convention other than the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown; and
- (b) a certificate obtained in accordance with Article 54 and Annex V shall be evidence, and in Scotland sufficient evidence, that the judgment is enforceable in the State of origin which is bound by the Lugano Convention.
- (2) A document purporting to be a copy of a judgment given by any such court as is mentioned in subsection (1)(a) is duly authenticated for the purposes of this section if it purports—
- (a) to bear the seal of that court; or
- (b) to be certified by any person in his capacity as a judge or officer of that court to be a true copy of a judgment given by that court.
- (3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible apart from this section.]

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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Textual Amendments

F61 S. 11A inserted (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 12\(2\)](#) (with [reg. 48](#))

Modifications etc. (not altering text)

C12 S. 11A applied (with modifications) (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 47\(5\)\(6\)](#) (with [reg. 48](#))

12 Provision for issue of copies of, and certificates in connection with, U.K. judgments.

Rules of court may make provision for enabling any interested party wishing to secure under the 1968 Convention [^{F62}or the Lugano Convention] the recognition or enforcement in another Contracting State of a judgment given by a court in the United Kingdom to obtain, subject to any conditions specified in the rules—

- (a) a copy of the judgment; and
- (b) a certificate giving particulars relating to the judgment and the proceedings in which it was given.

Textual Amendments

F62 Words in s. 12 inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45: 3\)](#), s. 3, [Sch. 2 para 7](#) (with s. 4); [S.I. 1992/745](#), [art. 2](#)

Modifications etc. (not altering text)

C13 S. 12 applied (with modifications) (1.4.1993) by [S.I. 1993/604](#), [art. 5](#).

13 Modifications to cover authentic instruments and court settlements.

- (1) Her Majesty may by Order in Council provide that—
 - (a) any provision of this Act relating to the recognition or enforcement in the United Kingdom or elsewhere of judgments to which the 1968 Convention [^{F63}or the Lugano Convention] applies; and
 - (b) any other statutory provision, whenever passed or made, so relating, shall apply, with such modifications as may be specified in the Order, in relation to documents and settlements within Title IV of the 1968 Convention [^{F64}or, as the case may be, Title IV of the Lugano Convention] (authentic instruments and court settlements enforceable in the same manner as judgments) as if they were judgments to which [^{F65}the Convention in question] applies.
- (2) An Order in Council under this section may make different provision in relation to different descriptions of documents and settlements.
- (3) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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Textual Amendments

- F63** Words in s. 13(1)(a) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 8(a)** (with s. 4); S.I. 1992/745, **art.2**
- F64** Words in s. 13(1) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 8(b)** (with s. 4); S.I. 1992/745, **art.2**
- F65** Words in s. 13(1) substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 8(c)** (with s. 4); S.I. 1992/745, **art.2**

14 Modifications consequential on revision of the Conventions.

- (1) If at any time it appears to Her Majesty in Council that Her Majesty’s Government in the United Kingdom have agreed to a revision of [^{F66}the Lugano Convention or any of the Brussels Conventions], including in particular any revision connected with the accession to [^{F67}the Lugano Convention or] the 1968 Convention of one or more further states, Her Majesty may by Order in Council make such modifications of this Act or any other statutory provision, whenever passed or made, as Her Majesty considers appropriate in consequence of the revision.
- (2) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (3) In this section “revision” means an omission from, addition to or alteration of any of the Conventions and includes replacement of [^{F66}the Lugano Convention or any of the Brussels Conventions] to any extent by another convention, protocol or other description of international agreement.

Textual Amendments

- F66** Words in s. 14(1)(3) substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 9(a)** (with s. 4); S.I. 1992/745, **art.2**
- F67** Words in s. 14(1) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 9(b)** (with s. 4); S.I. 1992/745, **art. 2**

15 Interpretation of Part I and consequential amendments.

- (1) In this Part, unless the context otherwise requires—
 - “judgment” has the meaning given by Article 25;
 - “maintenance order” means a maintenance judgment within the meaning of the 1968 Convention [^{F68}or, as the case may be, the Lugano Convention];
 - “payer”, in relation to a maintenance order, means the person liable to make payments for which the order provides;
 - “prescribed” means prescribed by rules of court.
- (2) References in this Part to a judgment registered under section 4 or 5 include, to the extent of its registration, references to a judgment so registered to a limited extent only.
- (3) Anything authorised or required by the 1968 Convention [^{F69}the Lugano Convention] or this Part to be done by, to or before a particular magistrates’ court may be done by, to or before any magistrates’ court acting [^{F70}in the same local justice area (or, in Northern Ireland, for the same] petty sessions district) as that court.

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- ^{XI}(4) The enactments specified in Part I of Schedule 12 shall have effect with the amendments specified there, being amendments consequential on this Part.

Editorial Information

- X1** The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

- F68** Words in s. 15(1) inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para. 10\(a\)](#) (with s. 4); [S.I. 1992/745, art.2](#)
- F69** Words in s. 15(3) inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para. 10\(b\)](#) (with s. 4); [S.I. 1992/745, art.2](#)
- F70** Words in s. 15(3) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(01), [Sch. 8 para. 269](#); [S.I. 2005/910, art. 3\(y\)](#)

Modifications etc. (not altering text)

- C14** S. 15(2)(3) applied (1.4.1993) by [S.I. 1993/604, art. 6](#).

PART II

JURISDICTION, AND RECOGNITION AND ENFORCEMENT OF JUDGMENTS, WITHIN UNITED KINGDOM

16 Allocation within U.K. of jurisdiction in certain civil proceedings.

- (1) The provisions set out in Schedule 4 (which contains a modified version of [^{F71}Chapter II of the Regulation]) shall have effect for determining, for each part of the United Kingdom, whether the courts of law of that part, or any particular court of law in that part, have or has jurisdiction in proceedings where—

- [^{F72}(a) the subject-matter of the proceedings is within the scope of the Regulation as determined by Article 1 of the Regulation (whether or not the Regulation has effect in relation to the proceedings); and]
- (b) the defendant or defender is domiciled in the United Kingdom or the proceedings are of a kind mentioned in [^{F73}Article 22 of the Regulation] (exclusive jurisdiction regardless of domicile).

^{F74}(2)

- (3) In determining any question as to the meaning or effect of any provision contained in Schedule 4—

- (a) regard shall be had to any relevant principles laid down by the European Court in connection with Title II of the 1968 Convention [^{F75}or Chapter II of the Regulation] and to any relevant decision of that court as to the meaning or effect of any provision of that Title [^{F76}or that Chapter]; and
- (b) without prejudice to the generality of paragraph (a), the reports mentioned in section 3(3) may be considered and shall, so far as relevant, be given such weight as is appropriate in the circumstances.

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) The provisions of this section and Schedule 4 shall have effect subject to [^{F77}the Regulation,] the 1968 Convention [^{F78}and the Lugano Convention] and to the provisions of section 17.

^{X2}(5) In section 15(1)(a) of the ^{M9}Maintenance Orders Act 1950 (domestic proceedings in which initial process may be served in another part of the United Kingdom), after subparagraph (v) there shall be added—

“(vi) Article 5(2) of Schedule 4 to the Civil Jurisdiction and Judgments Act 1982 ; or”.

Editorial Information

X2 The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

- F71** Words in s. 16(1) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 3(a)(i)** (with transitional provisions in art. 6)
- F72** S. 16(1)(a) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 3(a)(ii)** (with transitional provisions in art. 6)
- F73** Words in s. 16(1)(b) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 3(a)(iii)** (with transitional provisions in art. 6)
- F74** S. 16(2) omitted (1.3.2002) by virtue of S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 3(b)** (with transitional provisions in art. 6)
- F75** Words in s. 16(3)(a) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 3(c)(i)** (with transitional provisions in art. 6)
- F76** Words in s. 16(3)(a) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 3(c)(ii)** (with transitional provisions in art. 6)
- F77** Words in s. 16(4) inserted (25.1.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 3(d)** (with transitional provisions in art. 6)
- F78** Words in s. 16(4) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 11(c)** (with s. 4); S.I. 1992/745, **art. 2**

Marginal Citations

M9 1950 c. 37.

17 Exclusion of certain proceedings from Schedule 4.

(1) Schedule 4 shall not apply to proceedings of any description listed in Schedule 5 or to proceedings in Scotland under any enactment which confers jurisdiction on a Scottish court in respect of a specific subject-matter on specific grounds.

(2) Her Majesty may by Order in Council—

- (a) add to the list in Schedule 5 any description of proceedings in any part of the United Kingdom; and
- (b) remove from that list any description of proceedings in any part of the United Kingdom (whether included in the list as originally enacted or added by virtue of this subsection).

(3) An Order in Council under subsection (2)—

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- (a) may make different provisions for different descriptions of proceedings, for the same description of proceedings in different courts or for different parts of the United Kingdom; and
 - (b) may contain such transitional and other incidental provisions as appear to Her Majesty to be appropriate.
- (4) An Order in Council under subsection (2) shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Modifications etc. (not altering text)

C15 S. 17(1) excluded (1.10.2008) by [The Housing \(Scotland\) Act 2006 \(Consequential Provisions\) Order 2008 \(S.I. 2008/1889\)](#), [art. 4\(4\)](#)

18 Enforcement of U.K. judgments in other parts of U.K.

- (1) In relation to any judgment to which this section applies—
- (a) Schedule 6 shall have effect for the purpose of enabling any money provisions contained in the judgment to be enforced in a part of the United Kingdom other than the part in which the judgment was given; and
 - (b) Schedule 7 shall have effect for the purpose of enabling any non-money provisions so contained to be so enforced.
- (2) In this section “judgment” means any of the following (references to the giving of a judgment being construed accordingly)—
- (a) any judgment or order (by whatever name called) given or made by a court of law in the United Kingdom;
 - (b) any judgment or order not within paragraph (a) which has been entered in England and Wales or Northern Ireland in the High Court or a county court;
 - (c) any document which in Scotland has been registered for execution in the Books of Council and Session or in the sheriff court books kept for any sheriffdom;
 - (d) any award or order made by a tribunal in any part of the United Kingdom which is enforceable in that part without an order of a court of law;
 - (e) an arbitration award which has become enforceable in the part of the United Kingdom in which it was given in the same manner as a judgment given by a court of law in that part;
 - ^{F79}(f) an order made, or a warrant issued, under Part 8 of the Proceeds of Crime Act 2002 for the purposes of a civil recovery investigation ^{F80}or a detained cash investigation] within the ^{F81}meanings] given by section 341 of that Act;]
- and, subject to the following provisions of this section, this section applies to all such judgments.
- (3) Subject to subsection (4), this section does not apply to—
- (a) a judgment given in proceedings in a magistrates’ court in England and Wales or Northern Ireland;
 - (b) a judgment given in proceedings other than civil proceedings;
 - ^{F82}(ba) a judgment given in the exercise of jurisdiction in relation to insolvency law, within the meaning of section ^{F83}426 of the Insolvency Act 1986;]

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- (c) a judgment given in proceedings relating to—
^{F84}(i)
 (iii) the obtaining of title to administer the estate of a deceased person.
- [^{F85}(d) an order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (confiscation).]
- (4) This section applies, whatever the nature of the proceedings in which it is made, to—
- (a) a decree issued under section 13 of the ^{M10}Court of Exchequer (Scotland) Act 1856 (recovery of certain rent-charges and penalties by process of the Court of Session);
 - (b) an order which is enforceable in the same manner as a judgment of the High Court in England and Wales by virtue of section 16 of the ^{M11}Contempt of Court Act 1981 or section 140 of the ^{M12}[^{F86}Senior Courts Act 1981] (which relate to fines for contempt of court and forfeiture of recognisances).
- [^{F87}(4A) This section does not apply as respects—
- (a) the enforcement in Scotland of orders made by the High Court or a county court in England and Wales under or for the purposes of Part VI of the Criminal Justice Act 1988 or the Drug Trafficking Act 1994 (confiscation of the proceeds of certain offences or of drug trafficking); or
 - (b) the enforcement in England and Wales of orders made by the Court of Session under or for the purposes of [^{F88}the Proceeds of Crime (Scotland) Act 1995]]
- (5) This section does not apply to so much of any judgment as—
- (a) is an order to which section 16 of the ^{M13}Maintenance Orders Act 1950 applies (and is therefore an order for whose enforcement in another part of the United Kingdom provision is made by Part II of that Act);
 - (b) concerns the status or legal capacity of an individual;
 - (c) relates to the management of the affairs of a person not capable of managing his own affairs;
 - (d) is a provisional (including protective) measure other than an order for the making of an interim payment;
- and except where otherwise stated references to a judgment to which this section applies are to such a judgment exclusive of any such provisions.
- (6) The following are within subsection (5)(b), but without prejudice to the generality of that provision—
- (a) a decree of judicial separation or of separation;
 - [^{F89}(b) any order which is a Part I order for the purposes of The Family Law Act 1986.]
- (7) This section does not apply to a judgment of a court outside the United Kingdom which falls to be treated for the purposes of its enforcement as a judgment of a court of law in the United Kingdom by virtue of registration under Part II of the ^{M14}Administration of Justice Act 1920, Part I of the ^{M15}Foreign Judgments (Reciprocal Enforcement) Act 1933, Part I of the ^{M16}Maintenance Orders (Reciprocal Enforcement) Act 1972 or section 4 or 5 of this Act.
- (8) A judgment to which this section applies, other than a judgment within paragraph (e) of subsection (2), shall not be enforced in another part of the United Kingdom except by way of registration under Schedule 6 or 7.

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Textual Amendments

- F79** S. 18(2)(f) inserted (1.4.2003) by [The Proceeds of Crime Act 2002 \(Investigations in different parts of the United Kingdom\) Order 2003 \(S.I. 2003/425\)](#), [art. 34](#)
- F80** Words in s. 18(2)(f) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 77, 94, [Sch. 10 para. 26\(a\)](#); S.I. 2008/755, [art. 17\(1\)\(c\)\(d\)\(iv\)](#)
- F81** Word in s. 18(2)(f) substituted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 77, 94, [Sch. 10 para. 26\(b\)](#); S.I. 2008/755, [art. 17\(1\)\(c\)\(d\)\(iv\)](#)
- F82** S. 18(3)(ba) added by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 8 para. 36](#)
- F83** Words substituted by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 439(2), [Sch. 14](#)
- F84** S. 18(c)(i)(ii) repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 10 Pt. IV](#)
- F85** S. 18(3)(d) inserted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458(1), [Sch. 11 para. 11](#); S.I. 2003/333, [art. 2](#), [Sch.](#) (with arts. 10-13 (as amended by S.I. 2003/531, arts. 3, 4)); S.S.I. 2003/210, [art. 2](#), [Sch.](#) (with [art. 7](#))
- F86** Words in s. 18(4)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148(1), [Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F87** S. 18(4A) substituted (3.2.1995) by 1994 c. 37, ss. 65, 69(2), [Sch. 1 para. 6](#)
- F88** Words in s. 18(4A) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), [Sch. 4 para. 42](#)
- F89** S. 18(6)(b) beginning “any order” substituted (14.10.1991) for s. 18(6)(b) beginning “any provision” by [Courts and Legal Services Act 1990 \(c. 41, SIF 76\)](#), ss. 116, 123(4), [Sch. 16 para. 41](#); S.I. 1991/1883, [art. 3 Sch.](#)

Modifications etc. (not altering text)

- C16** S. 18: power to exclude conferred (1.12.1993) (by adding 1991 c. 24, [Sch. 4 para. 19\(4\)](#)), by 1993 c. 36, [s. 46](#) (with [s. 78\(6\)](#)); S.I. 1993/2734, [art. 2](#), [Sch.](#)
S. 18: power to restrict conferred (E.W.) (3.2.1995) by 1994 c. 37, [S. 38\(4\)](#)
S. 18: power to exclude conferred (S.) (1.4.1996) by 1995 c. 43, [s. 39\(4\)](#)
S. 18: power to exclude conferred (N.I.) (25.8.1996) by S.I. 1996/1299 (N.I. 9), [art. 3\(3\)](#)
- C17** S. 18(7) extended (1.4.1993) by S.I. 1993/604, [art. 7](#).
S. 18(7) extended (1.3.2002) by S.I. 2001/3928, [art. 3](#)
- C18** S. 18(7) extended (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 47\(7\)](#) (with [reg. 48](#))

Marginal Citations

- M10** 1856 c. 56.
M11 1981 c. 49.
M12 1981 c. 54.
M13 1950 c. 37.
M14 1920 c. 81.
M15 1933 c. 13.
M16 1972 c. 18.

19 Recognition of U.K. judgments in other parts of U.K.

- (1) A judgment to which this section applies given in one part of the United Kingdom shall not be refused recognition in another part of the United Kingdom solely on the ground that, in relation to that judgment, the court which gave it was not a court of competent jurisdiction according to the rules of private international law in force in that other part.
- (2) Subject to subsection (3), this section applies to any judgment to which section 18 applies.

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- (3) This section does not apply to—
- (a) the documents mentioned in paragraph (c) of the definition of “judgment” in section 18(2);
 - (b) the awards and orders mentioned in paragraphs (d) and (e) of that definition;
 - (c) the decrees and orders referred to in section 18(4).

PART III

JURISDICTION IN SCOTLAND

20 Rules as to jurisdiction in Scotland.

- (1) Subject to [^{F90}the Regulation, to] Parts I and II and to the following provisions of this Part, Schedule 8 has effect to determine in what circumstances a person may be sued in civil proceedings in the Court of Session or in a sheriff court.
- (2) Nothing in Schedule 8 affects the competence as respects subject-matter or value of the Court of Session or of the sheriff court.
- (3) Section 6 of the ^{M17}Sheriff Courts (Scotland) Act 1907 shall cease to have effect to the extent that it determines jurisdiction in relation to any matter to which Schedule 8 applies.
- ^{F91}(4)
- (5) In determining any question as to the meaning or effect of any provision contained in Schedule 8 ^{F92} . . . —
 - (a) regard shall be had to any relevant principles laid down by the European Court in connection with Title II of the 1968 Convention [^{F93}or Chapter II of the Regulation] and to any relevant decision of that court as to the meaning or effect of any provision of that Title [^{F94}or that Chapter]; and
 - (b) without prejudice to the generality of paragraph (a), the reports mentioned in section 3(3) may be considered and shall, so far as relevant, be given such weight as is appropriate in the circumstances.

Textual Amendments

- F90** Words in s. 20(1) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 6(a)** (with transitional provisions in [art. 6](#))
- F91** S. 20(4) omitted (1.3.2002) by virtue of S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 6(b)** (with transitional provisions in [art. 6](#))
- F92** Words in s. 20(5) omitted (1.3.2002) by virtue of S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 6(c)(i)** (with transitional provisions in [art. 6](#))
- F93** Words in s. 20(5)(a) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 6(c)(ii)** (with transitional provisions in [art. 6](#))
- F94** Words in s. 20(5)(a) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 6(c)(iii)** (with transitional provisions in [art. 6](#))

Marginal Citations

- M17** 1907 c. 51.

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21 Continuance of certain existing jurisdictions.

- (1) Schedule 8 does not affect—
 - (a) the operation of any enactment which confers jurisdiction on a Scottish court in respect of a specific subject-matter on specific grounds;
 - (b) without prejudice to the foregoing generality, the jurisdiction of any court in respect of any matter mentioned in Schedule 9.
- (2) Her Majesty may by Order in Council—
 - (a) add to the list in Schedule 9 any description of proceedings; and
 - (b) remove from that list any description of proceedings (whether included in the list as originally enacted or added by virtue of this subsection).
- (3) An Order in Council under subsection (2) may—
 - (a) make different provision for different descriptions of proceedings or for the same description of proceedings in different courts; and
 - (b) contain such transitional and other incidental provisions as appear to Her Majesty to be appropriate.
- (4) An Order in Council under subsection (2) shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Modifications etc. (not altering text)

C19 S. 21(1) excluded (1.10.2008) by [The Housing \(Scotland\) Act 2006 \(Consequential Provisions\) Order 2008 \(S.I. 2008/1889\)](#), [art. 5\(4\)](#)

22 Supplementary provisions.

- (1) Nothing in Schedule 8 shall prevent a court from declining jurisdiction on the ground *offorum non conveniens*.
- (2) Nothing in Schedule 8 affects the operation of any enactment or rule of law under which a court may decline to exercise jurisdiction because of the prorogation by parties of the jurisdiction of another court.
- (3) For the avoidance of doubt, it is declared that nothing in Schedule 8 affects the *nobile officium* of the Court of Session.
- (4) Where a court has jurisdiction in any proceedings by virtue of Schedule 8, that court shall also have jurisdiction to determine any matter which—
 - (a) is ancillary or incidental to the proceedings; or
 - (b) requires to be determined for the purposes of a decision in the proceedings.

23 Savings and consequential amendments.

- (1) Nothing in Schedule 8 shall affect—
 - (a) the power of any court to vary or recall a maintenance order granted by that court;
 - (b) the power of a sheriff court under section 22 of the ^{M18}Maintenance Orders Act 1950 (discharge and variation of maintenance orders registered in sheriff

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courts) to vary or discharge a maintenance order registered in that court under Part II of that Act; or

- (c) the power of a sheriff court under section 9 of the ^{M19}Maintenance Orders (Reciprocal Enforcement) Act 1972 (variation and revocation of maintenance orders registered in United Kingdom courts) to vary or revoke a registered order within the meaning of Part I of that Act.

^{X3}(2) The enactments specified in Part II of Schedule 12 shall have effect with the amendments specified there, being amendments consequential on Schedule 8.

Editorial Information

X3 The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M18 1950 c. 37.

M19 1972 c. 18.

PART IV

MISCELLANEOUS PROVISIONS

Provisions relating to jurisdiction

24 Interim relief and protective measures in cases of doubtful jurisdiction.

- (1) Any power of a court in England and Wales or Northern Ireland to grant interim relief pending trial or pending the determination of an appeal shall extend to a case where—
- (a) the issue to be tried, or which is the subject of the appeal, relates to the jurisdiction of the court to entertain the proceedings; or
 - (b) the proceedings involve the reference of any matter to the European Court under the 1971 Protocol.

[^{F95}; or

- (c) the proceedings involve a reference of any matter relating to the Regulation to the European Court under Article 68 of the Treaty establishing the European Community]

- (2) Any power of a court in Scotland to grant protective measures pending the decision of any hearing shall apply to a case where—

- (a) the subject of the proceedings includes a question as to the jurisdiction of the court to entertain them; or
- (b) the proceedings involve the reference of a matter to the European Court under the 1971 Protocol.

[^{F96}; or

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- (c) the proceedings involve a reference of any matter relating to the Regulation to the European Court under Article 68 of the Treaty establishing the European Community]
- (3) Subsections (1) and (2) shall not be construed as restricting any power to grant interim relief or protective measures which a court may have apart from this section.

Textual Amendments

- F95** S. 24(1)(c) and the preceding word “or” inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, Sch. 2 para. 9(a)
- F96** S. 24(2)(c) and the preceding word “or” inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, Sch. 2 para. 9(b)

25 Interim relief in England and Wales and Northern Ireland in the absence of substantive proceedings.

- (1) The High Court in England and Wales or Northern Ireland shall have power to grant interim relief where—
 - (a) proceedings have been or are to be commenced in a [F97Brussels or Lugano Contracting State][F98or a Regulation State] other than the United Kingdom or in a part of the United Kingdom other than that in which the High Court in question exercises jurisdiction; and
 - [F99(b) they are or will be proceedings whose subject-matter is within the scope of the Regulation as determined by Article 1 of the Regulation (whether or not the Regulation has effect in relation to the proceedings).]
- (2) On an application for any interim relief under subsection (1) the court may refuse to grant that relief if, in the opinion of the court, the fact that the court has no jurisdiction apart from this section in relation to the subject-matter of the proceedings in question makes it inexpedient for the court to grant it.
- (3) Her Majesty may by Order in Council extend the power to grant interim relief conferred by subsection (1) so as to make it exercisable in relation to proceedings of any of the following descriptions, namely—
 - (a) proceedings commenced or to be commenced otherwise than in a [F97Brussels or Lugano Contracting State][F98or Regulation State];
 - [F100(b) proceedings whose subject-matter is not within the scope of the Regulation as determined by Article 1 of the Regulation;]
 - F101(c)
- (4) An Order in Council under subsection (3)—
 - (a) may confer power to grant only specified descriptions of interim relief;
 - (b) may make different provision for different classes of proceedings, for proceedings pending in different countries or courts outside the United Kingdom or in different parts of the United Kingdom, and for other different circumstances; and
 - (c) may impose conditions or restrictions on the exercise of any power conferred by the Order.

F102(5)

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- (6) Any Order in Council under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “interim relief”, in relation to the High Court in England and Wales or Northern Ireland, means interim relief of any kind which that court has power to grant in proceedings relating to matters within its jurisdiction, other than—
- (a) a warrant for the arrest of property; or
 - (b) provision for obtaining evidence.

Textual Amendments

- F97** Words in s. 25(1)(a)(3)(a) substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 12(a)** (with s. 4); S.I. 1992/745, **art. 2**
- F98** Words in s. 25(1)(a)(3)(a) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 10(a)(i)(b)(i)**
- F99** S. 25(1)(b) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 10(a)(ii)**
- F100** S. 25(3)(b) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 10(b)(ii)**
- F101** S. 25(3)(c) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4**; S.I. 1996/3146, art. 3, **Sch. 2**
- F102** S. 25(5) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4**, S.I. 1996/3146, art. 3, Sch. 2

26 Security in Admiralty proceedings in England and Wales or Northern Ireland in case of stay, etc.

- (1) Where in England and Wales or Northern Ireland a court stays or dismisses Admiralty proceedings on the ground that the dispute in question should be submitted^{F103} . . . to the determination of the courts of another part of the United Kingdom or of an overseas country, the court may, if in those proceedings property has been arrested or bail or other security has been given to prevent or obtain release from arrest—
- (a) order that the property arrested be retained as security for the satisfaction of any award or judgment which—
 - (i) is given in respect of the dispute in the^{F104} . . . legal proceedings in favour of which those proceedings are stayed or dismissed; and
 - (ii) is enforceable in England and Wales or, as the case may be, in Northern Ireland; or
 - (b) order that the stay or dismissal of those proceedings be conditional on the provision of equivalent security for the satisfaction of any such award or judgment.
- (2) Where a court makes an order under subsection (1), it may attach such conditions to the order as it thinks fit, in particular conditions with respect to the institution or prosecution of the relevant^{F105} . . . legal proceedings.
- (3) Subject to any provision made by rules of court and to any necessary modifications, the same law and practice shall apply in relation to property retained in pursuance of an order made by a court under subsection (1) as would apply if it were held for the purposes of proceedings in that court.

Textual Amendments

- F103** Words in s. 26(1) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4**; S.I. 1996/3146, art. 3, **Sch. 2**

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F104 Words in s. 26(1)(a)(i) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4**; S.I. 1996/3146, art. 3, **Sch. 2**

F105 Words in s. 26(2) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4**; S.I. 1996/3146, art. 3, **Sch. 2**

27 Provisional and protective measures in Scotland in the absence of substantive proceedings.

- (1) The Court of Session may, in any case to which this subsection applies—
- (a) subject to subsection (2)(c), grant a warrant for the arrestment of any assets situated in Scotland;
 - (b) subject to subsection (2)(c), grant a warrant of inhibition over any property situated in Scotland;
 - ^[F106](ba) subject to subsection (2)(c) below, grant a warrant for the interim attachment of corporeal moveable property situated in Scotland;] and
 - (c) grant interim interdict.

- (2) Subsection (1) applies to any case in which—

- (a) proceedings have been commenced but not concluded, or, in relation to paragraph (c) of that subsection, are to be commenced, in another ^[F107]Brussels or Lugano Contracting State^[F108], in another Regulation State] or in England and Wales or Northern Ireland;
- ^[F109](b) the subject-matter of the proceedings is within the scope of the Regulation as determined by Article 1 of the Regulation; and]
- (c) in relation to paragraphs (a) ^[F110], (b) and (ba)] of subsection (1), such a warrant could competently have been granted in equivalent proceedings before a Scottish court;

but it shall not be necessary, in determining whether proceedings have been commenced for the purpose of paragraph (a) of this subsection, to show that any document has been served on or notice given to the defender.

- (3) Her Majesty may by Order in Council confer on the Court of Session power to do anything mentioned in subsection (1) or in section 28 in relation to proceedings of any of the following descriptions, namely—

- (a) proceedings commenced otherwise than in a ^[F107]Brussels or Lugano Contracting State^[F111] or Regulation State];
- ^[F112](b) proceedings whose subject-matter is not within the scope of the Regulation as determined by Article 1 of the Regulation;]
- (c) arbitration proceedings;
- (d) in relation to subsection (1)(c) or section 28, proceedings which are to be commenced otherwise than in a ^[F107]Brussels or Lugano Contracting State^[F111] or Regulation State].

- (4) An Order in Council under subsection (3)—

- (a) may confer power to do only certain of the things mentioned in subsection (1) or in section 28;
- (b) may make different provision for different classes of proceedings, for proceedings pending in different countries or courts outside the United Kingdom or in different parts of the United Kingdom, and for other different circumstances; and
- (c) may impose conditions or restrictions on the exercise of any power conferred by the Order.

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- (5) Any Order in Council under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F106** S. 27(1)(ba) inserted (S.) (1.4.2008) by *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. 226, 227(3), **sch. 5 para. 12(a)** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 1 para. 2 (with arts. 4-7, 10, 15)
- F107** Words in s. 27(2)(a)(3)(a)(d) substituted (1.5.1992) by *Civil Jurisdiction and Judgments Act 1991* (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 12(b)** (with s. 4); S.I. 1992/745, **art. 2**
- F108** Words in s. 27(2)(a) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 11(a)**
- F109** S. 27(2)(b) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 11(b)**
- F110** Words in s. 27(2)(c) substituted (S.) (1.4.2008) by *Bankruptcy and Diligence etc. (Scotland) Act 2007* (asp 3), ss. 226, 227(3), **sch. 5 para. 12(b)** (with s. 223); S.S.I. 2008/115, **art. 3(2)(3)**, Sch. 1 para. 2 (with arts. 4-7, 10, 15)
- F111** Words in s. 27(3)(a)(d) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 11(c)(i)(iii)**
- F112** S. 27(3)(b) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 11(c)(ii)**

28 Application of s. 1 of Administration of Justice (Scotland) Act 1972.

When any proceedings have been brought, or are likely to be brought, in another [^{F113}Brussels or Lugano Contracting State][^{F114}, in a Regulation State] or in England and Wales or Northern Ireland in respect of any matter which is within the scope of the [^{F115}Regulation] as determined in Article 1, the Court of Session shall have the like power to make an order under section 1 of the ^{M20}Administration of Justice (Scotland) Act 1972 [^{F116}as amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985] as if the proceedings in question had been brought, or were likely to be brought, in that court.

Textual Amendments

- F113** Words in s. 28 substituted (1.5.1992) by *Civil Jurisdiction and Judgments Act 1991* (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 12(c)** (with s. 4); S.I. 1992/745, **art. 2**
- F114** Words in s. 28 inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 12(a)**
- F115** Word in s. 28 substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 12(b)**
- F116** Words inserted (S.) by *Law Reform (Miscellaneous Provisions) (Scotland) Act 1985* (c. 73, SIF 39:1), s. 59, **Sch. 2 para. 24**

Marginal Citations

- M20** 1972 c. 59.

29 Service of county court process outside Northern Ireland.

The County Court Rules Committee established by Article 46 of the ^{M21}County Courts (Northern Ireland) Order 1980 may make county court rules with respect to the service of process outside Northern Ireland and the conditions subject to which process may be so served; and accordingly in Article 48 of that Order (powers of Rules Committee), after paragraph (e) there shall be added—

- “(f) the service of process outside Northern Ireland, and the conditions subject to which process may be so served.”

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Marginal Citations

M21 S.I. 1980/397 (N.I. 3).

30 Proceedings in England and Wales or Northern Ireland for torts to immovable property.

- (1) The jurisdiction of any court in England and Wales or Northern Ireland to entertain proceedings for trespass to, or any other tort affecting, immovable property shall extend to cases in which the property in question is situated outside that part of the United Kingdom unless the proceedings are principally concerned with a question of the title to, or the right to possession of, that property.
- (2) Subsection (1) has effect subject to the 1968 Convention [F117 and the Lugano Convention][F118 and the Regulation] and to the provisions set out in Schedule 4.

Textual Amendments

F117 Words in s. 30(2) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para. 13 (with s. 4); S.I. 1992/745, art. 2

F118 Words in s. 30(2) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, Sch. 2 para. 13

Provisions relating to recognition and enforcement of judgments

31 Overseas judgments given against states, etc.

- (1) A judgement given by a court of an overseas country against a state other than the United Kingdom or the state to which that court belongs shall be recognised and enforced in the United Kingdom if, and only if—
 - (a) it would be so recognised and enforced if it had not been given against a state; and
 - (b) that court would have had jurisdiction in the matter if it had applied rules corresponding to those applicable to such matters in the United Kingdom in accordance with sections 2 to 11 of the M22 State Immunity Act 1978.
- (2) References in subsection (1) to a judgment given against a state include references to judgments of any of the following descriptions given in relation to a state—
 - (a) judgments against the government, or a department of the government, of the state but not (except as mentioned in paragraph (c)) judgments against an entity which is distinct from the executive organs of government;
 - (b) judgments against the sovereign or head of state in his public capacity;
 - (c) judgments against any such separate entity as is mentioned in paragraph (a) given in proceedings relating to anything done by it in the exercise of the sovereign authority of the state.
- (3) Nothing in subsection (1) shall affect the recognition or enforcement in the United Kingdom of a judgment to which Part I of the M23 Foreign Judgments (Reciprocal Enforcement) Act 1933 applies by virtue of section 4 of the M24 Carriage of Goods by Road Act 1965, section 17(4) of the M25 Nuclear Installations Act 1965, section

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[^{F119}166(4) of the Merchant Shipping Act 1995], [^{F120}regulation 8 of the Railways (Convention on International Carriage by Rail) Regulations 2005]^{F121}

(4) Sections 12, 13 and 14(3) and (4) of the State Immunity Act 1978 (service of process and procedural privileges) shall apply to proceedings for the recognition or enforcement in the United Kingdom of a judgment given by a court of an overseas country (whether or not that judgment is within subsection (1) of this section) as they apply to other proceedings.

(5) In this section “state”, in the case of a federal state, includes any of its constituent territories.

Textual Amendments

F119 Words in s. 31(3) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 66(a)** (with s. 312(1))

F120 Words in s. 31(3) substituted (1.7.2006) by **The Railways (Convention on International Carriage by Rail) Regulations 2005** (S.I. 2005/2092), reg. 9(2), **Sch. 3 para. 2** (with reg. 9(3))

F121 Words in s. 31(3) repealed (22.7.2004) by **Statute Law (Repeals) Act 2004** (c. 14), s. 1(1), **Sch. 1 Pt. 14**

Marginal Citations

M22 1978 c. 33.

M23 1933 c. 13.

M24 1965 c. 37.

M25 1965 c. 57.

32 Overseas judgments given in proceedings brought in breach of agreement for settlement of disputes.

(1) Subject to the following provisions of this section, a judgment given by a court of an overseas country in any proceedings shall not be recognised or enforced in the United Kingdom if—

- (a) the bringing of those proceedings in that court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of that country; and
- (b) those proceedings were not brought in that court by, or with the agreement of, the person against whom the judgment was given; and
- (c) that person did not counterclaim in the proceedings or otherwise submit to the jurisdiction of that court.

(2) Subsection (1) does not apply where the agreement referred to in paragraph (a) of that subsection was illegal, void or unenforceable or was incapable of being performed for reasons not attributable to the fault of the party bringing the proceedings in which the judgment was given.

(3) In determining whether a judgment given by a court of an overseas country should be recognised or enforced in the United Kingdom, a court in the United Kingdom shall not be bound by any decision of the overseas court relating to any of the matters mentioned in subsection (1) or (2).

(4) Nothing in subsection (1) shall affect the recognition or enforcement in the United Kingdom of—

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- (a) a judgment which is required to be recognised or enforced there under the 1968 Convention [F122 or the Lugano Convention][F123 or the Regulation];
- (b) a judgment to which Part I of the M26 Foreign Judgments (Reciprocal Enforcement) Act 1933 applies by virtue of section 4 of the M27 Carriage of Goods by Road Act 1965, section 17(4) of the M28 Nuclear Installations Act 1965, F124 . . . [F125 regulation 8 of the Railways (Convention on International Carriage by Rail) Regulations 2005]F126 . . . or [F127 section 177(4) of the Merchant Shipping Act 1995].

Textual Amendments

- F122** Words in s. 32(4)(a) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 14** (with s. 4); S.I. 1992/745, **art. 2**
- F123** Words in s. 32(4)(a) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 14**
- F124** Words in s. 32(4)(b) repealed (1.1.1996) by 1995 c. 21, ss. 314(1)(2), 316(2), Schs. 12, **13**, para. 66(b)(i) (with ss. 312(1), **Sch. 14** para. 1)
- F125** Words in s. 32(4) substituted (1.7.2006) by The Railways (Convention on International Carriage by Rail) Regulations 2005 (S.I. 2005/2092), reg. 9(2), **Sch. 3 para. 2** (with reg. 9(3))
- F126** Words in s. 32(4)(b) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), **Sch. 1 Pt. 14**
- F127** Words in s. 32(4)(b) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), **Sch. 13 para. 66(b)(ii)** (with s. 312(1))

Marginal Citations

- M26** 1933 c. 13.
M27 1965 c. 37.
M28 1965 c. 57.

33 Certain steps not to amount to submission to jurisdiction of overseas court.

- (1) For the purposes of determining whether a judgment given by a court of an overseas country should be recognised or enforced in England and Wales or Northern Ireland, the person against whom the judgment was given shall not be regarded as having submitted to the jurisdiction of the court by reason only of the fact that he appeared (conditionally or otherwise) in the proceedings for all or any one or more of the following purposes, namely—
- (a) to contest the jurisdiction of the court;
 - (b) to ask the court to dismiss or stay the proceedings on the ground that the dispute in question should be submitted to arbitration or to the determination of the courts of another country;
 - (c) to protect, or obtain the release of, property seized or threatened with seizure in the proceedings.
- (2) Nothing in this section shall affect the recognition or enforcement in England and Wales or Northern Ireland of a judgment which is required to be recognised or enforced there under the 1968 Convention [F128 or the Lugano Convention][F129 or the Regulation].

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Textual Amendments

- F128** Words in s. 33(2) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para. 15 (with s. 4); S.I. 1992/745, art. 2
- F129** Words in s. 33(2) added (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, Sch. 2 para. 15

34 Certain judgments a bar to further proceedings on the same cause of action.

No proceedings may be brought by a person in England and Wales or Northern Ireland on a cause of action in respect of which a judgment has been given in his favour in proceedings between the same parties, or their privies, in a court in another part of the United Kingdom or in a court of an overseas country, unless that judgment is not enforceable or entitled to recognition in England and Wales or, as the case may be, in Northern Ireland.

35 Minor amendments relating to overseas judgments.

- (1) The ^{M29}Foreign Judgments (Reciprocal Enforcement) Act 1933 shall have effect with the amendments specified in Schedule 10, being amendments whose main purpose is to enable Part I of that Act to be applied to judgments of courts other than superior courts, to judgments providing for interim payments and to certain arbitration awards.
- ^{X4}(2) For section 10 of the ^{M30}Administration of Justice Act 1920 (issue of certificates of judgments obtained in the United Kingdom) there shall be substituted—
- (1) Where—
- (a) a judgement has been obtained in the High Court in England or Northern Ireland, or in the Court of Session in Scotland, against any person ; and
 - (b) the judgments creditor wishes to secure the enforcement of the judgement in a part of Her Majesty’s dominions outside the United Kingdom to which this Part of this Act extends,
- the court shall, on an application made by the judgement creditor, issue to him a certified copy of the judgement.
- (2) The reference in the preceding subsection to Her Majesty’s dominions shall be construed as if that subsection had come into force in its present form at the commencement of this Act.”.
- ^{X4}(3) In section 14 of the ^{M31}Administration of Justice Act 1920 (extent of Part II of that Act), after subsection (2) there shall be inserted—
- “(3) Her Majesty may by Order in Council under this section consolidate any Orders in Council under this section which are in force when the consolidating Order is made.”.

Editorial Information

- X4** The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Marginal Citations

- M29** 1933 c. 13.
M30 1920 c. 81.
M31 1920 c. 81.

36 Registration of maintenance orders in Northern Ireland.

(1) Where—

- (a) a High Court order or a Court of Session order has been registered in the High Court of Justice in Northern Ireland (“the Northern Ireland High Court”) under Part II of the ^{M32}Maintenance Orders Act 1950; or
- (b) a county court order, a magistrates’ court order or a sheriff court order has been registered in a court of summary jurisdiction in Northern Ireland under that Part,

an application may be made to the original court for the registration of the order in, respectively, a court of summary jurisdiction in Northern Ireland or the Northern Ireland High Court.

(2) In subsection (1) “the original court”, in relation to an order, means the court by which the order was made.

(3) Section 2 (except subsection (6A)) and section 2A of the ^{M33}Maintenance Orders Act 1958 shall have effect for the purposes of an application under subsection (1), and subsections (2), (3), (4) and (4A) of section 5 of that Act shall have effect for the purposes of the cancellation of a registration made on such an application, as if—

- (a) “registration” in those provisions included registration in the appropriate Northern Ireland court (“registered” being construed accordingly);
- (b) any reference in those provisions to a High Court order or a magistrates’ court order included, respectively, a Court of Session order or a sheriff court order; and
- (c) any other reference in those provisions to the High Court or a magistrates’ court included the Northern Ireland High Court or a court of summary jurisdiction in Northern Ireland;

^{F130}(d) for section 2(6), there were substituted the following subsections—

“(6) Where a magistrates’ court order is registered under this Part of this Act in the High Court, then—

- (a) if payments under the magistrates’ court order are required to be made (otherwise than to a collecting officer) by any method of payment falling within Article 85(7) of the Magistrates’ Courts (Northern Ireland) Order 1981 (standing order, etc.), any order requiring payment by that method shall continue to have effect after registration;
- (b) any order by virtue of which sums payable under the magistrates’ court order are required to be paid to the collecting officer (whether or not by any method of payment falling within Article 85(7) of that Order) on behalf of the person entitled thereto shall cease to have effect.

(6ZA) Where a High Court or county court order is registered under this Part of this Act in a magistrates’ court, then—

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- (a) if a means of payment order (within the meaning of Article 96A(7) of the Judgments Enforcement (Northern Ireland) Order 1981) has effect in relation to the order in question, it shall continue to have effect after registration; and
 - (b) in any other case, the magistrates' court shall order that all payments to be made under the order in question (including any arrears accrued before registration) shall be made to the collecting officer.
- (6ZB) Any such order as to payment—
- (a) as is referred to in paragraph (a) of subsection (6) of this section may be revoked, suspended, revived or varied by an exercise of the powers conferred by section 13A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966; and
 - (b) as is referred to in paragraph (a) or (b) of subsection (6ZA) of this section may be varied or revoked by an exercise of the powers conferred by section 12(2) or 13(2A) or (5A) of that Act of 1966.
- (6ZC) Where by virtue of the provisions of this section or any order under subsection (6ZA)(b) of this section payments under an order cease to be or become payable to the collecting officer, the person liable to make the payments shall, until he is given the prescribed notice to that effect, be deemed to comply with the order if he makes payments in accordance with the order and any order under subsection (6ZA)(b) of this section of which he has received such notice.
- (6ZD) In subsections (6), (6ZA) and (6ZC) of this section “collecting officer” means the officer mentioned in Article 85(4) of the Magistrates' Courts (Northern Ireland) Order 1981.”]
- (4) Where an order is registered in Northern Ireland under this section, Part II of the ^{M34}Maintenance and Affiliation Orders Act (Northern Ireland) 1966, except sections 11, 11A and 14(2) and (3), shall apply as if the order had been registered in accordance with the provisions of that Part ^{F131}, as if—
- (a) in section 12(2), for modifications of Article 98(8B) to (8D) of the Magistrates' Courts (Northern Ireland) Order 1981 specified in that subsection there were substituted the modifications specified in section 18(3ZA) of the Maintenance Orders Act 1950 (enforcement of registered orders); and
 - (b) for section 13(5A), there were substituted the following subsection—
 - “(“ Subject to the following provisions of this section, paragraphs (4) to (11) of Article 86 of the Magistrates' Courts (Northern Ireland) Order 1981 (power of clerk and court to vary maintenance orders) shall apply in relation to a registered order as they apply in relation to a maintenance order made by a court of summary jurisdiction (disregarding Article 25(2) of the Domestic Proceedings (Northern Ireland) Order 1980) but—
 - (a) as if for paragraph (4)(b) there were substituted—
 - “(b) payments under the order are required to be made to the collecting officer, by any

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method of payment falling within Article 85(7) (standing order, etc.);”

and as if after the words “petty sessions” there were inserted “for the petty sessions district for which the court which made the order acts”;

- (b) as if in paragraph (5) for the words “to the collecting officer” there were substituted “in accordance with sub-paragraph (a) of paragraph (9)”;
- (c) as if in paragraph (7), sub-paragraph (c) and the word “and” immediately preceding it were omitted;
- (d) as if in paragraph (8) for the words “sub-paragraphs (a) to (d) of Article 85(3)” there were substituted “paragraph (9)”;
- (e) as if for paragraphs (9) and (10) there were substituted the following paragraphs—

“(“) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the collecting officer;
- (b) the power to order that payments under the order be made to the collecting officer, by such method of payment falling within Article 85(7) (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(10) In deciding which of the powers under paragraph (9) above it is to exercise, the court shall have regard to any representations made by the debtor.

(10A) Paragraph (5) of Article 85 (power of court to require debtor to open account) shall apply for the purposes of paragraph (9) as it applies for the purposes of that Article but as if for sub-paragraph (a) there were substituted—

“(“) the court proposes to exercise its power under sub-paragraph (b) of Article 86(9)””]

(5) A court of summary jurisdiction in Northern Ireland shall have jurisdiction to hear [^{F132}an application] by or against a person residing outside Northern Ireland for the discharge or variation of an order registered in Northern Ireland under this section; and where such [^{F132}an application] is made against a person residing outside Northern Ireland, then, if he resides in England and Wales or Scotland, section 15 of the ^{M35}Maintenance Orders Act 1950 (which relates to the service of process on persons residing in those countries) shall have effect in relation to [^{F132}the application] as it has effect in relation to the proceedings therein mentioned.

[^{F133}(5A) Article 165 of the Children (Northern Ireland) Order 1995 (provision which may be made by magistrates’ courts rules, etc.) shall apply for the purpose of giving effect to subsection (5) above as it applies for the purpose of giving effect to that Order, except that in the application of that Article by virtue of this subsection “relevant

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proceedings” means any application made, or proceedings brought, by virtue of that subsection and any part of such proceedings.]

^{X5}(6) The enactments specified in Part III of Schedule 12 shall have effect with the amendments specified there, being amendments consequential on this section.

Editorial Information

X5 The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F130 S. 36(3)(d) inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), art. 11, **Sch. 1 para. 17(a)**; S.R. 1996/454, **art. 3**

F131 S. 36(4)(a)-(e) and preceding words inserted (N.I.) (4.11.1996) by S.I. 1993/1576 (N.I. 6), art. 11, **Sch. 1 para. 17(b)**; S.R. 1996/454, **art. 3**

F132 Words in s. 36(5) substituted (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 117(1)**; S.R. 1996/297, **art. 2(2)**

F133 S. 36(5A) inserted (N.I.) (4.11.1996) by S.I. 1995/755 (N.I. 2), art. 185(1), **Sch. 9 para. 117(2)**; S.R. 1996/297 art. 2(2)

Marginal Citations

M32 1950 c. 37.

M33 1958 c. 39.

M34 1966 c. 35 (N.I.)

M35 1950 c. 37.

37 Minor amendments relating to maintenance orders.

(1) The enactments specified in Schedule 11 shall have effect with the amendments specified there, being amendments whose main purpose is as follows—

Part I—to extend certain enforcement provisions to lump sum maintenance orders;

Part II—to provide for the recovery of interest according to the law of the country of origin in the case of maintenance orders made in other jurisdictions and registered in the High Court;

Part III—to extend the ^{M36}Maintenance Orders (Reciprocal Enforcement) Act 1972 to cases where the payer under a maintenance order is not resident within the jurisdiction but has assets there.

^{F134}(2)

Textual Amendments

F134 S. 37(2) repealed (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 2(2), **Sch. 3**; S.I. 1993/618, **art. 2**

Marginal Citations

M36 1972 c. 18.

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{X6}38 Overseas judgments counteracting an award of multiple damages.

- (1) Section 7 of the ^{M37}Protection of Trading Interests Act 1980 (which enables provision to be made by Order in Council for the enforcement in the United Kingdom on a reciprocal basis of overseas judgments directed to counteracting a judgement for multiple damages given in the third country) shall be amended as follows.
- (2) In subsection (1) for “judgements given under any provision of the law of that country corresponding to that section” there shall be substituted “judgments of any description specified in the Order which are given under any provision of the law of that country relating to the recovery of sums paid or obtained pursuant to a judgement for multiple damages within the meaning of section 5(3) above, whether or not that provision corresponds to section 6 above”.
- (3) After subsection (1) there shall be inserted—
 - “(1A) Such an Order in Council may, as respects judgments to which it relates—
 - (a) make different provisions for different descriptions of judgments ; and
 - (b) impose conditions or restrictions on the enforcement of judgments of any description.”.

Editorial Information

X6 The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M37 1980 c. 11.

*Jurisdiction, and recognition and enforcement of judgments,
as between United Kingdom and certain territories*

39 Application of provisions corresponding to 1968 Convention in relation to certain territories.

- (1) Her Majesty may by Order in Council make provision corresponding to the provision made by the 1968 Convention as between the Contracting States to that Convention, with such modifications as appear to Her Majesty to be appropriate, for regulating, as between the United Kingdom and any of the territories mentioned in subsection (2), the jurisdiction of courts and the recognition and enforcement of judgments.
- (2) The territories referred to in subsection (1) are—
 - (a) the Isle of Man;
 - (b) any of the Channel Islands;
 - ^{F135}(c) Gibraltar;
 - (d) the Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the ^{M38}Cyprus Act 1960).]
 - ^{F135}(c) any colony.]
- (3) An Order in Council under this section may contain such supplementary and incidental provisions as appear to Her Majesty to be necessary or expedient, including in

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particular provisions corresponding to or applying any of the provisions of Part I with such modifications as may be specified in the Order.

- (4) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F135 S. 39(2)(c) consisting of words “any colony.” substituted (1.10.1991) for s. 39(2)(c) and (d) commencing “(c) Gibraltar” by S.I. 1990/2591, art. 10

Marginal Citations

M38 1960 c. 52.

Legal aid

40 Power to modify enactments relating to legal aid etc.

^{F136}(1)

^{F137}(2)

^{X7}(3) In Article 22 of the ^{M39}Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (power of Lord Chancellor to make regulations), after paragraph (4) there shall be inserted as paragraph (4A)—

“(4A) Without prejudice to the preceding provisions of this Article or any other provision of this Part authorising the making of regulations, regulations may also modify the provisions of, or of any instrument having effect under, this Part (including so much of any of those provisions as specifies a sum of money) for the purposes of the application of those provisions—

- (a) in cases where their modification appears to the Lord Chancellor necessary for the purpose of fulfilling any obligation imposed on the United Kingdom or Her Majesty’s government therein by any international agreement ; or
- (b) in relation to proceedings for securing the recognition or enforcement in Northern Ireland of judgments given outside the United Kingdom for whose recognition or enforcement in the United Kingdom provision os made by any international agreement.”.

Editorial Information

X7 The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Textual Amendments

F136 S. 40(1) repealed by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), s. 45, [Sch. 6](#)

F137 S. 40(2) repealed (S.) by [Legal Aid \(Scotland\) Act 1986 \(c. 47, SIF 77:2\)](#), ss. 43, 45, [Sch. 4 para. 3\(1\)](#), [Sch. 5](#)

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Marginal Citations

M39 S.I. 1981/228 (N.I. 8).

PART V

SUPPLEMENTARY AND GENERAL PROVISIONS

Domicile

41 Domicile of individuals.

- (1) Subject to Article 52 (which contains provisions for determining whether a party is domiciled in a Contracting State), the following provisions of this section determine, for the purposes of the 1968 Convention [^{F138}the Lugano Convention] and this Act, whether an individual is domiciled in the United Kingdom or in a particular part of, or place in, the United Kingdom or in a state other than a Contracting State.
- (2) An individual is domiciled in the United Kingdom if and only if—
 - (a) he is resident in the United Kingdom; and
 - (b) the nature and circumstances of his residence indicate that he has a substantial connection with the United Kingdom.
- (3) Subject to subsection (5), an individual is domiciled in a particular part of the United Kingdom if and only if—
 - (a) he is resident in that part; and
 - (b) the nature and circumstances of his residence indicate that he has a substantial connection with that part.
- (4) An individual is domiciled in a particular place in the United Kingdom if and only if he—
 - (a) is domiciled in the part of the United Kingdom in which that place is situated; and
 - (b) is resident in that place.
- (5) An individual who is domiciled in the United Kingdom but in whose case the requirements of subsection (3)(b) are not satisfied in relation to any particular part of the United Kingdom shall be treated as domiciled in the part of the United Kingdom in which he is resident.
- (6) In the case of an individual who—
 - (a) is resident in the United Kingdom, or in a particular part of the United Kingdom; and
 - (b) has been so resident for the last three months or more,the requirements of subsection (2)(b) or, as the case may be, subsection (3)(b) shall be presumed to be fulfilled unless the contrary is proved.
- (7) An individual is domiciled in a state other than a Contracting State if and only if—
 - (a) he is resident in that state; and
 - (b) the nature and circumstances of his residence indicate that he has a substantial connection with that state.

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Textual Amendments

F138 Words in s. 41(1) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para.16 (with s. 4); S.I. 1992/745, art. 2

Modifications etc. (not altering text)

C20 S. 41 applied (S.) (10.6.2002) by S.S.I. 2002/132, art. 2, Sch. 1 Ch. 7 Rule 7.3(3)(a) (with art. 3)
S. 41 applied (S.) (10.6.2002) by S.S.I. 2002/133, art. 2, Sch. 1 Ch. 8 Rule 8.3(3)(a)

VALID FROM 01/01/2010

^{F139} 41A Domicile of individuals for the purposes of the Lugano Convention

- (1) Subject to Article 59 of the Lugano Convention (which contains provisions for determining whether a party is domiciled in a State bound by the Lugano Convention), the following provisions of this section determine, for the purposes of the Lugano Convention, whether an individual is domiciled in the United Kingdom or in a particular part of, or place in, the United Kingdom or in a state other than a State bound by the Lugano Convention.
- (2) An individual is domiciled in the United Kingdom if and only if—
 - (a) he is resident in the United Kingdom; and
 - (b) the nature and circumstances of his residence indicate that he has a substantial connection with the United Kingdom.
- (3) Subject to subsection (5), an individual is domiciled in a particular part of the United Kingdom if and only if—
 - (a) he is resident in that part; and
 - (b) the nature and circumstances of his residence indicate that he has a substantial connection with that part.
- (4) An individual is domiciled in a particular place in the United Kingdom if and only if he—
 - (a) is domiciled in the part of the United Kingdom in which that place is situated; and
 - (b) is resident in that place.
- (5) An individual who is domiciled in the United Kingdom but in whose case the requirements of subsection (3)(b) are not satisfied in relation to any particular part of the United Kingdom shall be treated as domiciled in the part of the United Kingdom in which he is resident.
- (6) In the case of an individual who—
 - (a) is resident in the United Kingdom, or in a particular part of the United Kingdom; and
 - (b) has been so resident for the last three months or more,
 the requirements of subsection (2)(b) or, as the case may be, subsection (3)(b) shall be presumed to be fulfilled unless the contrary is proved.
- (7) An individual is domiciled in a state other than a State bound by the Lugano Convention if and only if—

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- (a) he is resident in that state; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that state.]

Textual Amendments

F139 S. 41A inserted (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 18\(2\)](#) (with [reg. 48](#))

42 Domicile and seat of corporation or association.

- (1) For the purposes of this Act the seat of a corporation or association (as determined by this section) shall be treated as its domicile.
- (2) The following provisions of this section determine where a corporation or association has its seat—
 - (a) for the purpose of Article 53 (which for the purposes of the 1968 Convention [^{F140}or, as the case may be, the Lugano Convention] equates the domicile of such a body with its seat); and
 - (b) for the purposes of this Act other than the provisions mentioned in section 43(1)(b) and (c).
- (3) A corporation or association has its seat in the United Kingdom if and only if—
 - (a) it was incorporated or formed under the law of a part of the United Kingdom and has its registered office or some other official address in the United Kingdom; or
 - (b) its central management and control is exercised in the United Kingdom.
- (4) A corporation or association has its seat in a particular part of the United Kingdom if and only if it has its seat in the United Kingdom and—
 - (a) it has its registered office or some other official address in that part; or
 - (b) its central management and control is exercised in that part; or
 - (c) it has a place of business in that part.
- (5) A corporation or association has its seat in a particular place in the United Kingdom if and only if it has its seat in the part of the United Kingdom in which that place is situated and—
 - (a) it has its registered office or some other official address in that place; or
 - (b) its central management and control is exercised in that place; or
 - (c) it has a place of business in that place.
- (6) Subject to subsection (7), a corporation or association has its seat in a state other than the United Kingdom if and only if—
 - (a) it was incorporated or formed under the law of that state and has its registered office or some other official address there; or
 - (b) its central management and control is exercised in that state.
- (7) A corporation or association shall not be regarded as having its seat in a Contracting State other than the United Kingdom if it is shown that the courts of that state would not regard it as having its seat there.

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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(8) In this section—

“business” includes any activity carried on by a corporation or association, and “place of business” shall be construed accordingly;

“official address”, in relation to a corporation or association, means an address which it is required by law to register, notify or maintain for the purpose of receiving notices or other communications.

Textual Amendments

F140 Words in s. 42(2)(a) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 17** (with s. 4); S.I. 1992/745, **art.2**.

Modifications etc. (not altering text)

C21 S. 42 applied (S.) (10.6.2002) by S.S.I. 2002/132, art. 2, **Sch. 1 Ch. 7 Rule 7.3(3)(a)** (with art. 3)
S. 42 applied (S.) (10.6.2002) by S.S.I. 2002/133, art. 2, **Sch. 1 Ch. 8 Rule 8.3(3)(a)**

43 Seat of corporation or association for purposes of Article 16(2) and related provisions.

(1) The following provisions of this section determine where a corporation or association has its seat for the purposes of—

- (a) Article 16(2) [^{F141}of the 1968 Convention or of the Lugano Convention] (which confers exclusive jurisdiction over proceedings relating to the formation or dissolution of such bodies, or to the decisions of their organs);
- (b) [^{F142}rules 4 and 11(b)] in Schedule 4; and
- (c) [^{F143}rules 2(1) and 5(1)(b)] in Schedule 8.

(2) A corporation or association has its seat in the United Kingdom if and only if—

- (a) it was incorporated or formed under the law of a part of the United Kingdom; or
- (b) its central management and control is exercised in the United Kingdom.

(3) A corporation or association has its seat in a particular part of the United Kingdom if and only if it has its seat in the United Kingdom and—

- (a) subject to subsection (5), it was incorporated or formed under the law of that part; or
- (b) being incorporated or formed under the law of a state other than the United Kingdom, its central management and control is exercised in that part.

(4) A corporation or association has its seat in a particular place in Scotland if and only if it has its seat in Scotland and—

- (a) it has its registered office or some other official address in that place; or
- (b) it has no registered office or other official address in Scotland, but its central management and control is exercised in that place.

(5) A corporation or association incorporated or formed under—

- (a) an enactment forming part of the law of more than one part of the United Kingdom; or
- (b) an instrument having effect in the domestic law of more than one part of the United Kingdom,

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shall, if it has a registered office, be taken to have its seat in the part of the United Kingdom in which that office is situated, and not in any other part of the United Kingdom.

- (6) Subject to subsection (7), a corporation or association has its seat in a Contracting State other than the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of that state; or
 - (b) its central management and control is exercised in that state.
- (7) A corporation or association shall not be regarded as having its seat in a Contracting State other than the United Kingdom if—
- (a) it has its seat in the United Kingdom by virtue of subsection (2)(a); or
 - (b) it is shown that the courts of that other state would not regard it for the purposes of Article 16(2) as having its seat there.
- (8) In this section “official address” has the same meaning as in section 42.

Textual Amendments

F141 Words in s. 43(1)(a) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 18** (with s. 4); S.I. 1992/745, **art. 2**

F142 Words in s. 43(1)(b) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 16(a)**

F143 Words in s. 43(1)(c) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 16(b)**

VALID FROM 01/01/2010

^{F144}43A Seat of companies or other legal persons, or of associations, for the purposes of Article 22(2) of the Lugano Convention

- (1) The following provisions of this section determine where a company, or other legal person or an association of natural or legal persons, has its seat for the purposes of Article 22(2) of the Lugano Convention (which confers exclusive jurisdiction over proceedings relating to the validity of the constitution, the nullity or the dissolution of such bodies, or to the validity of the decisions of their organs).
- (2) A company, legal person or association has its seat in the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of a part of the United Kingdom; or
 - (b) its central management and control is exercised in the United Kingdom.
- (3) Subject to subsection (4), a company, legal person or association has its seat in a State bound by the Lugano Convention other than the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of that state; or
 - (b) its central management and control is exercised in that state.
- (4) A company, legal person or association shall not be regarded as having its seat in a State bound by the Lugano Convention other than the United Kingdom if—
- (a) it has its seat in the United Kingdom by virtue of subsection (2)(a); or

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- (b) it is shown that the courts of that other state would not regard it for the purposes of Article 22(2) as having its seat there.]

Textual Amendments

F144 S. 43A inserted (1.1.2010) by The Civil Jurisdiction and Judgments Regulations 2009 (S.I. 2009/3131), reg. 20(2) (with reg. 48)

44 Persons deemed to be domiciled in the United Kingdom for certain purposes.

- (1) This section applies to—
- (a) proceedings within Section 3 of Title II of the 1968 Convention [^{F145}or Section 3 of Title II of the Lugano Convention] (insurance contracts), and
 - (b) proceedings within Section 4 of [^{F146}Title II of either of those Conventions] (consumer contracts).
- (2) A person who, for the purposes of proceedings to which this section applies arising out of the operations of a branch, agency or other establishment in the United Kingdom, is deemed for the purposes of the 1968 Convention [^{F147}or, as the case may be, of the Lugano Convention] to be domiciled in the United Kingdom by virtue of—
- (a) Article 8, second paragraph (insurers); or
 - (b) Article 13, second paragraph (suppliers of goods, services or credit to consumers),

shall, for the purposes of those proceedings, be treated for the purposes of this Act as so domiciled and as domiciled in the part of the United Kingdom in which the branch, agency or establishment in question is situated.

Textual Amendments

F145 Words in s. 44(1)(a) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para. 19(1)(a) (with s.4); S.I. 1992/745, art.2

F146 Words in s. 44(1)(b) substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para. 19(1)(b) (with s. 4); S.I. 1992/745, art.2.

F147 Words in s. 44(2) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para. 19(2) (with s. 4); S.I. 1992/745, art.2.

VALID FROM 01/01/2010

^{F148}44A Persons deemed to be domiciled in the United Kingdom for certain purposes of the Lugano Convention

- (1) This section applies to—
- (a) proceedings within Section 3 of Title II of the Lugano Convention (insurance contracts);
 - (b) proceedings within Section 4 of Title II of the Lugano Convention (consumer contracts); and
 - (c) proceedings within Section 5 of Title II of the Lugano Convention (employment contracts).

Status: Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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- (2) A person who, for the purposes of proceedings to which this section applies arising out of the operations of a branch, agency or other establishment in the United Kingdom, is deemed for the purposes of the Lugano Convention to be domiciled in the United Kingdom by virtue of —
- (a) Article 9(2) (insurers); or
 - (b) Article 15(2) (suppliers of goods, services or credit to consumers); or
 - (c) Article 18(2) (employers),
- shall, for the purposes of those proceedings, be treated as so domiciled and as domiciled in the part of the United Kingdom in which the branch, agency or establishment in question is situated.]

Textual Amendments

F148 S. 44A inserted (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 22](#) (with [reg. 48](#))

45 Domicile of trusts.

- (1) The following provisions of this section determine, for the purposes of the 1968 Convention [^{F149}the Lugano Convention] and this Act, where a trust is domiciled.
- (2) A trust is domiciled in the United Kingdom if and only if it is by virtue of subsection (3) domiciled in a part of the United Kingdom.
- (3) A trust is domiciled in a part of the United Kingdom if and only if the system of law of that part is the system of law with which the trust has its closest and most real connection.

Textual Amendments

F149 Words in s. 45(1) inserted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para. 20](#) (with s. 4); [S.I. 1992/745](#), [art. 2](#)

46 Domicile and seat of the Crown.

- (1) For the purposes of this Act the seat of the Crown (as determined by this section) shall be treated as its domicile.
- (2) The following provisions of this section determine where the Crown has its seat—
- (a) for the purposes of the 1968 Convention [^{F150}and the Lugano Convention][^{F151}(in each of which] Article 53 equates the domicile of a legal person with its seat); and
 - (b) for the purposes of this Act.
- (3) Subject to the provisions of any Order in Council for the time being in force under subsection (4)—
- (a) the Crown in right of Her Majesty's government in the United Kingdom has its seat in every part of, and every place in, the United Kingdom;

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- [^{F152}(aa) the Crown in right of the Scottish Administration has its seat in, and in every place in, Scotland;] and
- (b) the Crown in right of Her Majesty's government in Northern Ireland has its seat in, and in every place in, Northern Ireland.
- (4) Her Majesty may by Order in Council provide that, in the case of proceedings of any specified description against the Crown in right of Her Majesty's government in the United Kingdom, the Crown shall be treated for the purposes of the 1968 Convention [^{F153}the Lugano Convention] and this Act as having its seat in, and in every place in, a specified part of the United Kingdom and not in any other part of the United Kingdom.
- (5) An Order in Council under subsection (4) may frame a description of proceedings in any way, and in particular may do so by reference to the government department or officer of the Crown against which or against whom they fall to be instituted.
- (6) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Nothing in this section applies to the Crown otherwise than in right of Her Majesty's government in the United Kingdom [^{F154}, the Scottish Administration] or Her Majesty's government in Northern Ireland.

Textual Amendments

F150 Words in s. 46(2)(a) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 21(1)** (with s. 4); S.I. 1992/745, **art. 2**

F151 Words in s. 46(2)(a) substituted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 21(1)** (with s. 4); S.I. 1992/745, **art. 2**.

F152 S. 46(3)(aa) inserted (6.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 18(2)**(with s. 126(3)); S.I. 1998/3178, **art. 2(2)**, **Sch. 3**

F153 Words in s. 46(4) inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, **Sch. 2 para. 21(2)** (with s. 4); S.I. 1992/745, **art. 2**.

F154 Words in s. 46(7) inserted (6.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 18(2)** (with s. 126(3)); S.I. 1998/3179, **art. 2(2)**, **Sch. 3**

Other supplementary provisions

47 Modifications occasioned by decisions of European Court as to meaning or effect of Conventions.

- (1) Her Majesty may by Order in Council—
- (a) make such provision as Her Majesty considers appropriate for the purpose of bringing the law of any part of the United Kingdom into accord with the [^{F155}Brussels Conventions] as affected by any principle laid down by the European Court in connection with the [^{F155}Brussels Conventions] or by any decision of that court as to the meaning or effect of any provision of the [^{F155}Brussels Conventions]; or
- (b) make such modifications of Schedule 4 or Schedule 8, or of any other statutory provision affected by any provision of either of those Schedules, as Her Majesty considers appropriate in view of any principle laid down by the European Court in connection with Title II of the 1968 Convention or of any decision of that court as to the meaning or effect of any provision of that Title.

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- (2) The provision which may be made by virtue of paragraph (a) of subsection (1) includes such modifications of this Act or any other statutory provision, whenever passed or made, as Her Majesty considers appropriate for the purpose mentioned in that paragraph.
- (3) The modifications which may be made by virtue of paragraph (b) of subsection (1) include modifications designed to produce divergence between any provision of Schedule 4 or Schedule 8 and a corresponding provision of Title II of the 1968 Convention as affected by any such principle or decision as is mentioned in that paragraph.
- (4) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Textual Amendments

F155 Words in s. 47(1)(a) substituted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para. 22](#) (with s. 4); [S.I. 1992/745, art.2](#).

48 Matters for which rules of court may provide.

- (1) Rules of court may make provision for regulating the procedure to be followed in any court in connection with any provision of this Act [^{F156}the Lugano Convention or the Brussels Conventions][^{F157}or the Regulation].
- (2) Rules of court may make provision as to the manner in which and the conditions subject to which a certificate or judgment registered in any court under any provision of this Act [^{F158}or the Regulation] may be enforced, including provision for enabling the court or, in Northern Ireland the Enforcement of Judgments Office, subject to any conditions specified in the rules, to give directions about such matters.
- (3) Without prejudice to the generality of subsections (1) and (2), the power to make rules of court for magistrates' courts, and in Northern Ireland the power to make Judgment Enforcement Rules, shall include power to make such provision as the rule-making authority considers necessary or expedient for the purposes of the provisions of [^{F159}the Lugano Convention, the Brussels Conventions][^{F160}, the Regulation] and this Act relating to maintenance proceedings and the recognition and enforcement of maintenance orders, and shall in particular include power to make provision as to any of the following matters—
 - (a) authorising the service in another Contracting State [^{F161}or Regulation State] of process issued by or for the purposes of a magistrates' court and the service and execution in England and Wales or Northern Ireland of process issued in another Contracting State [^{F161}or Regulation State];
 - (b) requesting courts in other parts of the United Kingdom or in other Contracting States [^{F161}or Regulation States] to take evidence there for the purposes of proceedings in England and Wales or Northern Ireland;
 - (c) the taking of evidence in England and Wales or Northern Ireland in response to similar requests received from such courts;
 - (d) the circumstances in which and the conditions subject to which any powers conferred under paragraphs (a) to (c) are to be exercised;
 - (e) the admission in evidence, subject to such conditions as may be prescribed in the rules, of statements contained in documents purporting to be made or

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authenticated by a court in another part of the United Kingdom or in another Contracting State [^{F161}or Regulation State], or by a judge or official of such a court, which purport—

- (i) to set out or summarise evidence given in proceedings in that court or to be documents received in evidence in such proceedings or copies of such documents; or
 - (ii) to set out or summarise evidence taken for the purposes of proceedings in England and Wales or Northern Ireland, whether or not in response to any such request as is mentioned in paragraph (b); or
 - (iii) to record information relating to the payments made under an order of that court;
 - (f) the circumstances and manner in which a magistrates' court may or must vary or revoke a maintenance order registered in that court, cancel the registration of, or refrain from enforcing, such an order or transmit such an order for enforcement in another part of the United Kingdom;
 - (g) the cases and manner in which courts in other parts of the United Kingdom or in other Contracting States [^{F161}or Regulation States] are to be informed of orders made, or other things done, by or for the purposes of a magistrates' court;
 - (h) the circumstances and manner in which a magistrates' court may communicate for other purposes with such courts;
 - (i) the giving of notice of such matters as may be prescribed in the rules to such persons as may be so prescribed and the manner in which such notice is to be given.
- (4) Nothing in this section shall be taken as derogating from the generality of any power to make rules of court conferred by any other enactment.

Textual Amendments

F156 Words in s. 48(1) substituted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para. 23\(a\)](#) (with s. 4); [S.I. 1992/745](#), [art. 2](#).

F157 Words in s. 48(1) added (25.1.2002) by [S.I. 2001/3929](#), arts. 1(a), 4, [Sch. 2 para. 17\(a\)](#)

F158 Words in s. 48(2) inserted (25.1.2002) by [S.I. 2001/3929](#), arts. 1(a), 4, [Sch. 2 para. 17\(b\)](#)

F159 Words in s. 48(3) substituted (1.5.1992) by [Civil Jurisdiction and Judgments Act 1991 \(c. 12, SIF 45:3\)](#), s. 3, [Sch. 2 para. 23\(b\)](#) (with s. 4); [S.I. 1992/745](#), [art. 2](#).

F160 Words in s. 48(3) inserted (25.1.2002) by [S.I. 2001/3929](#), arts. 1(a), 4, [Sch. 2 para. 17\(c\)\(i\)](#)

F161 Words in s. 48(3) inserted (25.1.2002) by [S.I. 2001/3929](#), arts. 1(a), 4, [Sch. 2 para. 17\(c\)\(i\)-\(v\)](#)

Modifications etc. (not altering text)

C22 S. 48 applied (1.4.1993) by [S.I. 1993/604](#), [art. 8](#).

S. 48 applied (with modifications) (1.3.2002) by [S.I. 2001/3928](#), [art. 4](#)

C23 S. 48 applied (1.1.2010) by [The Civil Jurisdiction and Judgments Regulations 2009 \(S.I. 2009/3131\)](#), [reg. 47\(8\)](#) (with [reg. 48](#))

49 Saving for powers to stay, sist, strike out or dismiss proceedings.

Nothing in this Act shall prevent any court in the United Kingdom from staying, sisting, striking out or dismissing any proceedings before it, on the ground of *forum non conveniens* or otherwise, where to do so is not inconsistent with the 1968 Convention [^{F162}or, as the case may be, the Lugano Convention].

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Textual Amendments

F162 Words in s. 49 inserted (1.5.1992) by Civil Jurisdiction and Judgments Act 1991 (c. 12, SIF 45:3), s. 3, Sch. 2 para. 24 (with s. 4); S.I. 1992/745, art. 2.

General

50 Interpretation: general.

In this Act, unless the context otherwise requires—

[^{F163}“the Accession Convention”, [^{F164}“the 1982 Accession Convention”, “the 1989 Accession Convention” and “the 1996 Accession Convention”] have the meaning given by section 1(1);]

“Article” and references to sub-divisions of numbered Articles are to be construed in accordance with section 1(2)(b);

“association” means an unincorporated body of persons;

[^{F165}“Brussels Contracting State” has the meaning given by section 1(3);]

[^{F165}“the Brussels Conventions” has the meaning given by section 1(1);]

“Contracting State” has the meaning given by section 1(3);

“the 1968 Convention” has the meaning given by section 1(1), and references to that Convention and to provisions of it are to be construed in accordance with section 1(2)(a);

^{F166} . . .

“corporation” means a body corporate, and includes a partnership subsisting under the law of Scotland;

“court”, without more, includes a tribunal;

“court of law”, in relation to the United Kingdom, means any of the following courts, namely—

(a) [^{F167}the Supreme Court,]

(b) in England and Wales or Northern Ireland, the Court of Appeal, the High Court, the Crown Court, a county court and a magistrates’ court,

(c) in Scotland, the Court of Session and a sheriff court;

“the Crown” is to be construed in accordance with section 51(2);

“enactment” includes an enactment comprised in Northern Ireland legislation;

“judgment”, subject to sections 15(1) and 18(2) and to paragraph 1 of Schedules 6 and 7, means any judgment or order (by whatever name called) given or made by a court in any civil proceedings;

[^{F165}“Lugano Contracting State” has the meaning given by section 1(3);]

[^{F165}“the Lugano Convention” has the meaning given by section 1(1);]

“magistrates’ court”, in relation to Northern Ireland, means a court of summary jurisdiction;

“modifications” includes additions, omissions and alterations;

“overseas country” means any country or territory outside the United Kingdom;

“part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;

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“the 1971 Protocol” has the meaning given by section 1(1), and references to that Protocol and to provisions of it are to be construed in accordance with section 1(2)(a);

[^{F168}“the Regulation” has the meaning given by section 1(1);]

[^{F169}“Regulation State” has the meaning given by section 1(3);]

“rules of court”, in relation to any court, means rules, orders or regulations made by the authority having power to make rules, orders or regulations regulating the procedure of that court, and includes—

- (a) in Scotland, Acts of Sederunt;
- (b) in Northern Ireland, Judgment Enforcement Rules;

“statutory provision” means any provision contained in an Act, or in any Northern Ireland legislation, or in—

- (a) subordinate legislation (as defined in section 21(1) of the ^{M40}Interpretation Act 1978); or
- (b) any instrument of a legislative character made under any Northern Ireland legislation;

“tribunal”—

- (a) means a tribunal of any description other than a court of law;
- (b) in relation to an overseas country, includes, as regards matters relating to maintenance within the meaning of the 1968 Convention, any authority having power to give, enforce, vary or revoke a maintenance order.

Textual Amendments

F163 Definition in s. 50 substituted (1.10.1991) by S.I. 1990/2591, **art. 9**

F164 Words in s. 50 substituted (1.1.2001) by **The Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824), arts. 1, 7**

F165 Entries in s. 50 inserted (1.5.1992) by **Civil Jurisdiction and Judgments Act 1991 (c. 12), s. 3, Sch. 2 para. 25; S.I. 1992/745, art. 2**

F166 Entry in s. 50 repealed (1.5.1992) by **Civil Jurisdiction and Judgments Act 1991 (c. 12), s. 3, Sch. 2 para. 25; S.I. 1992/745, art. 2**

F167 S. 50: paragraph (a) in the definition of "court of law" substituted (1.10.2009) by **Constitutional Reform Act 2005 (c. 4), ss. 145, 148(1), Sch. 17 para. 23; S.I. 2009/1604, art. 2(e)**

F168 S. 50: definition of "the Regulation" inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 18**

F169 S. 50: definition of "Regulation State" inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 4, **Sch. 2 para. 18**

Marginal Citations

M40 1978 c. 30.

51 Application to Crown.

- (1) This Act binds the Court.
- (2) In this section and elsewhere in this Act references to the Crown do not include references to Her Majesty in Her private capacity or to Her Majesty in right of Her Duchy of Lancaster or to the Duke of Cornwall.

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52 Extent.

- (1) This Act extends to Northern Ireland.
- (2) Without prejudice to the power conferred by section 39, Her Majesty may by Order in Council direct that all or any of the provisions of this Act apart from that section shall extend, subject to such modifications as may be specified in the Order, to any of the following territories, that is to say—
 - (a) the Isle of Man;
 - (b) any of the Channel Islands;
 - [^{F170}(c) any colony.]

Textual Amendments

F170 S. 52(2)(c) substituted (1.10.1991) for s. 52(2)(c)(d) by [S.I. 1990/2591](#), [art. 10](#)

53 Commencement, transitional provisions and savings.

- (1) This Act shall come into force in accordance with the provisions of Part I of Schedule 13.
- (2) The transitional provisions and savings contained in Part II of that Schedule shall have effect in relation to the commencement of the provisions of this Act mentioned in that Part.

Subordinate Legislation Made

P1 Power of appointment conferred by s. 53(1) fully exercised: [S.I. 1984/1553](#), 1986/1781, 1986/2044

^{x8}54 Repeals.

The enactments mentioned in Schedule 14 are hereby repealed to the extent specified in the third column of that Schedule.

Editorial Information

X8 The text of ss. 15(4), 16(5), 23(2), 35(2)(3), 36(6), 37(2), 38, 40(3), 54, Schs. 10–12 and 14 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

55 Short title.

This Act may be cited as the Civil Jurisdiction and Judgments Act 1982.

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