



Civil Jurisdiction and Judgments Act 1982

1982 CHAPTER 27

PART III

JURISDICTION IN SCOTLAND

20 Rules as to jurisdiction in Scotland.

- (1) Subject 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 ^{M1}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.
- (4) In Schedule 8—
 - (a) words resulting from modifications of Title II of the 1968 Convention, by way of addition or substitution, and provisions not derived from that Title are printed in heavy type; and
 - (b) the marginal notes show, where appropriate, of which provision of Title II a provision of Schedule 8 is a modified version.
- (5) In determining any question as to the meaning or effect of any provision contained in Schedule 8 and derived to any extent from Title II of the 1968 Convention—
 - (a) regard shall be had to any relevant principles laid down by the European Court in connection with Title II of the 1968 Convention and to any relevant decision of that court as to the meaning or effect of any provision of that Title; 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Status: Point in time view as at 06/05/1999.

Changes to legislation: Civil Jurisdiction and Judgments Act 1982, Part III is up to date with all changes known to be in force on or before 19 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)

Marginal Citations

M1 1907 c. 51.

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)

C1 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.

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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 ^{M2}Maintenance Orders Act 1950 (discharge and variation of maintenance orders registered in sheriff 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 ^{M3}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.

^{X1}(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

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.

Marginal Citations

M2 1950 c. 37.

M3 1972 c. 18.

Status:

Point in time view as at 06/05/1999.

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