

2002 No. 2972 (S. 12)

EMPLOYMENT TRIBUNALS, SCOTLAND

**The Employment Tribunals (Enforcement of Orders in
Other Jurisdictions) (Scotland) Regulations 2002**

Made - - - - - *2nd December 2002*

Laid before Parliament *3rd December 2002*

Coming into force - - *24th December 2002*

The Secretary of State, in exercise of the power conferred on her by section 18(1)(a) of, and paragraphs 2(2) and 4(1) of Schedule 6 to, the Civil Jurisdiction and Judgments Act 1982(a) and by section 7(1) of the Employment Tribunals Act 1996(b) (as extended by section 12 and section 48(1) of the Civil Jurisdiction and Judgments Act 1982(c)), and after consultation with the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992(d), hereby makes the following Regulations:—

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Employment Tribunals (Enforcement of Orders in Other Jurisdictions) (Scotland) Regulations 2002 and shall come into force on 24th December 2002.

(2) The Employment Tribunals (Enforcement of Orders under the Civil Jurisdiction and Judgments Act 1982) (Scotland) Regulations 1995(e) are hereby revoked.

Interpretation

2. In these Regulations—

“the Act of 1982” means the Civil Jurisdiction and Judgments Act 1982;

“Contracting State” has the meaning assigned in section 1(3)(f) of the Act of 1982;

“Office of the Tribunals” means the Central Office of the Employment Tribunals (Scotland);

“order” means an order for the payment of one or more sums of money contained in a decision of an employment tribunal in Scotland;

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- (a) 1982 c. 27; there are amendments to section 18 not relevant to these regulations. Paragraph 1 of Schedule 6 defines “prescribed” as prescribed by rules of court. See section 50 for the definition of “court” and “rules of court”.
- (b) 1996 c. 17; by virtue of section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) industrial tribunals were renamed employment tribunals and references to “industrial tribunal” and “industrial tribunals” in any enactment were substituted with “employment tribunal” and “employment tribunals”.
- (c) Section 12 was amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12) Schedule 2, paragraph 7, and the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order (S.I. 1993/604). Section 48 was amended by the Civil Jurisdiction and Judgments Act 1991 section 3 and Schedule 2, paragraph 23, and by paragraph 1 of Schedule 2 to the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929).
- (d) 1992 c. 53.
- (e) S.I. 1995/1717.
- (f) Section 1(3) has been amended by article 6 of the Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990 (S.I. 1990/2591), by sections 2(5) and (6) of the Civil Jurisdiction and Judgments Act 1991 (c. 12), by article 5 of the Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000 (S.I. 2000/1824) and by paragraph 1(b) of Schedule 2 to the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929).

“Register” means the register of applications, appeals and decisions kept in pursuance of regulation 12 of the Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 2001(a),

“Regulation State” has the meaning assigned in section 1(3) of the Act of 1982; and

“Secretary” means the person for the time being appointed to act as the Secretary of the Office of the Tribunals.

Recognition or enforcement of tribunal decisions in another Contracting State

3.—(1) An interested party who wishes to secure the recognition or enforcement, in another Contracting State, of an order, may apply for—

- (a) a copy of the decision of the tribunal containing that order; and
- (b) a certificate giving particulars relating to the decision and the proceedings in which it was given;

in accordance with paragraph (2).

(2) The application shall be in writing and shall state—

- (a) the names of the parties to the proceedings in which the decision was given and, if known by the person applying, the case number of the originating application which relates to those proceedings;
- (b) the date shown on the decision as being the date it was sent to the parties;
- (c) if known by the person applying, whether enforcement of the order has been stayed or suspended; and
- (d) that the application is made in pursuance of a wish on the part of the person applying to secure the recognition or enforcement of the order in another Contracting State.

(3) The application shall be presented to the Secretary at the Office of the Tribunals.

(4) If the Secretary is of the opinion that he is unable to issue a certificate under this regulation unless he is given further information, he shall, in writing, notify the person applying of that fact, specifying what further information is required.

(5) Subject to paragraph (4), upon receiving an application which satisfies the requirements of this regulation, the Secretary shall issue to the person applying—

- (a) a certificate in the Form set out in Schedule 1, or in a form substantially to the same effect, with such variation as circumstances may require; and
- (b) a copy of the decision as it appears on the Register.

Recognition or enforcement of tribunal decisions in another Regulation State

4.—(1) An interested party who wishes to secure recognition or apply for a declaration of enforceability of an order in another Regulation State may apply for—

- (a) a copy of the decision of the tribunal containing that order; and
- (b) a certificate giving particulars relating to the decision and the proceedings in which it was given;

in accordance with paragraph (2).

(2) The application shall be in writing and shall state—

- (a) the names of the parties to the proceedings in which the decision containing the order was given and, if known by the person applying, the case number of the originating application which relates to those proceedings; and
- (b) the date shown on the decision as being the date it was sent to the parties.

(3) The application shall be presented to the Secretary at the Office of the Tribunals.

(4) If the Secretary is of the opinion that he is unable to issue a certificate under this regulation unless he is given further information, he shall, in writing, notify the person applying of that fact, specifying the further information required.

(a) S.I. 2001/1170, to which there is an amendment not relevant to these Regulations.

(5) Subject to paragraph (4), upon receiving an application which satisfies the requirements of this regulation, the Secretary shall issue to the person applying—

- (a) a certificate in the form of Annex V to the Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters; and
- (b) a copy of the decision as it appears on the Register.

Enforcement of tribunal orders in other parts of the United Kingdom

5.—(1) An interested party who wishes under Schedule 6 of the Act of 1982 to secure the enforcement, in another part of the United Kingdom, of an order made by a tribunal in Scotland, shall apply for a certificate in respect of that order, in accordance with paragraph (2).

(2) The application shall be in writing and shall—

(a) state—

- (i) the names of the parties to the proceedings in which the decision containing the order was given and, if known by the person applying, the case number of the originating application which relates to those proceedings;
- (ii) the date shown on the decision as being the date it was sent to the parties; and

(b) verify that enforcement of the order has not been stayed or suspended and that the time available for enforcement has not expired.

(3) The application shall be presented to the Secretary at the Office of the Tribunals.

(4) If the Secretary is of the opinion that he is unable to issue a certificate under this regulation unless he is given further information, he shall, in writing, notify the person applying of that fact, specifying the further information required.

(5) Subject to paragraph (4), upon receiving an application which satisfies the requirements of this regulation, the Secretary shall issue to the person applying—

- (a) a certificate in the form set out in Schedule 2, or in a form substantially to the same effect, with such variation as circumstances may require; and
- (b) a copy of the decision as it appears on the Register.

Miscellaneous

6. Any function of the Secretary may be performed by a person acting with the authority of the Secretary.

Alan Johnson,
Minister of State for Employment Relations,
Industry and the Regions,
Department of Trade and Industry

2nd December 2002

FORM

Certificate under regulation 3 of the Employment Tribunals (Enforcement of Orders in Other Jurisdictions) (Scotland) Regulations 2002

The Central Office of the Employment Tribunals (Scotland)

..... (*applicant*) and

..... (*respondent*)

I, _____, [the Secretary of The Central Office of the Employment Tribunals (Scotland)], hereby certify:—

1. That an originating application was presented on [*date*] by the applicant named above and that a copy of the originating application was sent [by post] to each of the respondent[s] named above on [*date*].

2. That the originating application sought relief on the grounds that [*state briefly the nature of the proceedings*].

3. That the respondent, [*name*], entered an appearance on [*date*] or failed to enter an appearance. [*repeat for each respondent as appropriate*]

4. That the decision of the employment tribunal sitting at [*place*] [upheld the application against the respondent[s] *name the respondent or respondents against whom the tribunal found*] [dismissed the application against the respondent[s] *name the respondent or respondents in whose favour the tribunal found*] [and ordered that the sum of £[*enter sum*] be paid by [*name*] to [*name*] [together with expenses of £[*enter sum*]].

5. That the sum [excluding expenses] mentioned in the preceding paragraph carries interest at the rate of [] per cent per annum from [*date*] until payment.

6. That the decision was entered on the Register of Applications, Appeals and Decisions on [*date*] and a copy of the entry was sent by me to each of the parties on [*date*].

7. That no objection has been made to the jurisdiction of the employment tribunal or That objection has been made to the jurisdiction of the employment tribunal by [*name*] on the grounds that [*state grounds of objection*].

8. That the time within which an appeal may be brought against the order expires on [*date*] or has expired.

9. That no appeal has been brought against the order [at the date of this certificate—*if time for appeal has not expired*] [and the time for bringing an appeal has expired] or that an appeal has been brought against the order and [has/has not] been finally disposed of.

10. That enforcement of the order has not for the time being been stayed or suspended and that the time for its enforcement has not expired and that the order is accordingly enforceable.

11. That this certificate is issued under regulation 3 of the Employment Tribunals (Enforcement of Orders in Other Jurisdictions) (Scotland) Regulations 2002.

Signed [*date*]

Secretary

Central Office of the Employment Tribunals (Scotland)

SCHEDULE 2

Regulation 5

FORM

Certificate under paragraph 4(1) of Schedule 6 to the Civil Jurisdiction and Judgments Act 1982

The Central Office of the Employment Tribunals (Scotland)

..... (*applicant*) and

..... (*respondent*)

I, _____, [the Secretary of The Central Office of the Employment Tribunals (Scotland)], hereby certify:—

1. That an employment tribunal sitting at [*place*] ordered, in a decision entered into the Register on [*date*], that the sum of £[*sum*] was payable by [*name*], [together with £[*sum*] expenses].

2. That the sum [excluding expenses] contained in the order carries interest at the rate of [] per cent per annum from [*date*] until payment.

3. That the time for appealing against the order contained in the decision has expired and [no appeal has been brought within that time or an appeal brought within that time has been finally disposed of].

4. That enforcement of the order has not for the time being been suspended and that the time available for its enforcement has not expired.

5. That this certificate is issued under paragraph 4(1) of Schedule 6 to the Civil Jurisdiction and Judgments Act 1982, in the form prescribed by regulation 5 of the Employment Tribunals (Enforcement of Orders in Other Jurisdictions) (Scotland) Regulations 2002.

Signed [*date*]

Secretary

Central Office of the Employment Tribunals (Scotland)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations revoke, and reproduce with amendments, the Employment Tribunals (Enforcement of Orders under the Civil Jurisdiction and Judgments Act 1982) (Scotland) Regulations 1995 (S.I 1995/1717) (the “1995 Regulations”). The 1995 Regulations provided for the issue of copies of, and certificates in connection with, orders for the payment of a sum of money (“money orders”) issued by employment tribunals in Scotland, in order to enable an interested party to secure the recognition and enforcement of that order in another state which is a contracting state under the Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters signed at Brussels on 27th September 1968 (the “Brussels Convention”) or the Convention on Jurisdiction and Enforcement of Judgments in Civil and Commercial Matters opened for signature at Lugano on 16th September 1988 (the “Lugano Convention”).

The 1995 Regulations also prescribed the manner of application for, and form of, a certificate in respect of money orders issued by employment tribunals in Scotland, in order to enable an interested party to secure the enforcement of such orders in another part of the United Kingdom under Schedule 6 to the Civil Jurisdiction and Judgments Act 1982.

In addition to minor and updating amendments, additional provision is now made in these regulations, in consequence of the coming into force on 1st March 2002 of Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the “Brussels Regulation”). The Brussels Regulation applies to all European Union Member States except Denmark, and to that extent replaces the Brussels Convention. The provisions of the 1995 Regulations are therefore unchanged in respect of the Brussels Convention (so far as it relates to Denmark), the Lugano Convention (regulation 3) and enforcement within the United Kingdom (regulation 5). New provision has been inserted in respect of the Brussels Regulation (regulation 4).

In particular, regulation 4 provides for the form of application for a copy of the money order and a certificate under article 54 of the Brussels Regulation by an interested party who wishes to apply, in another country to which the Brussels Regulation applies, for recognition of, and a declaration of enforceability in relation to, a money order issued by an employment tribunal in Scotland. It provides that those making such an application will be provided with a copy of the decision containing the order and a certificate in the form of Annex V to the Brussels Regulation.

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