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SENIOR COURTS OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES

The Civil Procedure (Amendment No. 7) Rules 2014

<i>Made</i> - - - -	<i>10th November 2014</i>
<i>Laid before Parliament</i>	<i>12th November 2014</i>
<i>Coming into force</i> - -	<i>10th January 2015</i>

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, makes the following Rules:

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No. 7) Rules 2014.
2. These Rules shall come into force on 10th January 2015.
3. In these Rules, a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(b).

Amendments to the Civil Procedure Rules 1998

- 4.—(1) Part 6 is amended as follows.
- (2) In rule 6.31(1), for sub-paragraph (d) substitute—

“(d) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(c), as amended from time to time and as applied pursuant to the Agreement made on 19 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(d);

(For application of the recast Judgments Regulation to Denmark, see also the Official Journal of the European Union at OJ L79, 21.3.2013. p.4)”.

(a) 1997 c.12. Section 2(1) was substituted by the Constitutional Reform Act 2005 (c.4), section 15 and Schedule 4 Part 1. Section 1(3) was substituted by section 82(1) of the Courts Act 2003 (c.39) and further amended by the Constitutional Reform Act 2005 sections 15, 146, Schedule 4 Part 1 paragraphs 261 and 262 and Schedule 18, Part 2.

(b) S.I. 1998/3132. Relevant amendments were made by S.I. 2002/2058, 2007/1655, 2008/2178, S.I. 2009/3131 and 2009/3390.

(c) OJ No. L 351, 20.12.2012, p.1

(d) OJ No. L 299, 16.11/2005, p62

(3) In rule 6.33—

(a) in paragraph (2)—

- (i) in sub-paragraph (a), at the beginning insert “subject to paragraph (2A)”; and
- (ii) for sub-paragraph (b) substitute—
 - “(b) (i) the defendant is domiciled in the United Kingdom or in any Member State;
 - (ii) the defendant is not a consumer, but is a party to a consumer contract within article 17 of the Judgments Regulation;
 - (iii) the defendant is an employer and a party to a contract of employment within article 20 of the Judgments Regulation;
 - (iv) the proceedings are within article 24 of the Judgments Regulation; or
 - (v) the defendant is a party to an agreement conferring jurisdiction within article 25 of the Judgments Regulation.”; and

(b) after paragraph (2) insert—

“(2A) Paragraph (2)(a) does not apply if the jurisdiction conferred by the agreement referred to in paragraph (2)(b)(v) is exclusive.”.

5.—(1) Part 74 is amended as follows.

(2) In the Table of Contents—

- (i) after the entry for rule 74.3, insert—

“Enforcement under the Judgments Regulation	74.3A”;
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- (ii) after the entry for rule 74.4, insert—

“Procedure for enforcing judgments under the Judgments Regulation	74.4A”;
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- (iii) after the entry for rule 74.7, insert—

“Refusal of recognition or enforcement under the Judgments Regulation	74.7A
Relief against enforcement under the Judgments Regulation	74.7B
Suspension of proceedings in which a judgment is invoked under the Judgments Regulation	74.7C”;
- (iv) after the entry for rule 74.11, insert—

“Adaptation of certain orders in foreign judgments subject to the Judgments Regulation	74.11A”.
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(3) In rule 74.1—

(a) in paragraph (5), for sub-paragraph (d) substitute—

“(d) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(a), as amended from time to time and as applied pursuant to the Agreement made on 19 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(b);

(For application of the recast Judgments Regulation to Denmark, see also the Official Journal of the European Union at OJ L79, 21.3.2013. p.4)”;

(b) omit the words in parentheses at the end of the rule.

(4) In rule 74.3(1)—

(a) OJ No. L 351, 20.12.2012, p.1
(b) OJ No. L 299, 16.11/2005, p62

- (a) at the end of sub-paragraph (c), insert “and”;
 - (b) omit sub-paragraph (d); and
 - (c) renumber sub-paragraph (e) to become sub-paragraph (d).
- (5) After rule 74.3, insert—

“Enforcement under the Judgments Regulation

- 74.3A.**—(1) This Section also provides rules about—
- (a) the enforcement of foreign judgments in England and Wales under the Judgments Regulation; and
 - (b) applications for the refusal of recognition and enforcement under the Judgments Regulation.”.
- (6) In rule 74.4(6), omit—
- (a) “the Judgments Regulation or”; and
 - (b) “that regulation or”.
- (7) After rule 74.4, insert—

“Procedure for enforcing judgments under the Judgments Regulation

- 74.4A.** A person seeking the enforcement of a judgment which is enforceable under the Judgments Regulation must, except in a case falling within article 43(3) of the Regulation (protective measures), provide the documents required by article 42 of the Regulation.”.
- (8) In rule 74.5(6)—
- (a) at the end of sub-paragraph (b), omit “and”;
 - (b) at the end of sub-paragraph (c), for the comma substitute “; and”; and
 - (c) after sub-paragraph (c) insert—
 - “(d) any application relating to the recognition or enforcement of a judgment pursuant to the Judgments Regulation.”.
- (9) In rule 74.6(3)(c)(ii)—
- (a) after “the 1982 Act”, omit “or”; and
 - (b) after “the Lugano Convention,”, omit “or the Judgments Regulation.”.
- (10) After rule 74.7, insert—

“Refusal of recognition or enforcement under the Judgments Regulation

- 74.7A.**—(1) An application under article 45 or 46 of the Judgments Regulation that the court should refuse to recognise or enforce a judgment must be made—
- (a) in accordance with Part 23; and
 - (b) to the court in which the judgment is being enforced or, if the judgment debtor is not aware of any proceedings relating to enforcement, the High Court.
- (2) An appeal against a decision granting or refusing an application for refusal of recognition or enforcement of a judgment under the Judgments Regulation must be made in accordance with Part 52, subject to the following provisions of this rule.
- (3) Permission is not required to—
- (a) appeal; or
 - (b) put in evidence.
- (4) Unless the court orders otherwise, the judgment debtor must, as soon as practicable, serve copies of any order made under article 45 or 46 or in any appeal under article 49 on—
- (a) all other parties to the proceedings and any other person affected by the order;

- (b) any court in which proceedings relating to enforcement of the judgment are pending in England and Wales; and
- (c) any enforcement agent or enforcement officer (as defined in rule 83.1(2)) instructed by the judgment creditor,

and any such order will not have effect on any person until it has been served.

(5) The court may require the judgment creditor to disclose to the judgment debtor the court or courts in which any proceedings relating to enforcement of the judgment are pending in England and Wales.

Relief against enforcement under the Judgments Regulation

74.7B.—(1) An application for relief under article 44 of the Judgments Regulation must be made—

- (a) in accordance with Part 23; and
- (b) to the court in which the judgment is being enforced or, if the judgment debtor is not aware of any proceedings relating to enforcement, the High Court.

(2) The judgment debtor must, as soon as practicable, serve copies of any order made under article 44 on—

- (a) all other parties to the proceedings and any other person affected by the order;
- (b) any court in which proceedings relating to enforcement of the judgment are pending in England and Wales; and
- (c) any enforcement agent or enforcement officer (as defined in rule 83.1(2)) instructed by the judgment creditor,

and any such order will not have effect on any person until it has been served.

Suspension of proceedings in which a judgment is invoked under the Judgments Regulation

74.7C.—(1) The court may suspend proceedings under article 38 of the Judgments Regulation either on its own initiative or on the application of any party.

(2) An application for suspension of proceedings under article 38 of the Judgments Regulation must be made—

- (a) in accordance with Part 23; and
- (b) to the court in which the judgment is invoked.

(3) The judgment debtor must, as soon as practicable, serve copies of any order made under article 38 on—

- (a) all other parties to the proceedings and any other person affected by the order;
- (b) any court in which proceedings relating to enforcement of the judgment are pending in England and Wales; and
- (c) any enforcement agent or enforcement officer (as defined in rule 83.1(2)) instructed by the judgment creditor,

and any such order will not have effect on any person until it has been served.”.

(11) In rule 74.8—

- (a) in paragraph (1), after “the Lugano Convention”, omit “or the Judgments Regulation”; and
- (b) in paragraph (3)(a), after “a Contracting State”, omit “or a Regulation State, as the case may be”.

(12) For rule 74.9 (Enforcement), substitute—

“Enforcement

74.9.—(1) In relation to enforcement of a judgment to which the Judgments Regulation applies, the judgment creditor must comply with article 43 of the Regulation.

(2) In relation to a judgment to which the Judgments Regulation does not apply, no steps may be taken to enforce the judgment—

- (a) before the end of the period specified in accordance with rule 74.6(3)(d), or that period as extended by the court; or
- (b) where there is an application under rule 74.7 or an appeal under rule 74.3, until the application or appeal has been determined.

(3) Any party wishing to enforce a judgment to which the Judgments Regulation does not apply must file evidence of the service on the judgment debtor of—

- (a) the registration order; and
- (b) any other relevant order of the court.

(4) Nothing in this rule prevents the court from making orders to preserve the property of the judgment debtor pending final determination of any issue relating to the enforcement of the judgment.”.

(13) In rule 74.10, in each of paragraphs (1) and (2)—

- (a) after “the 1982 Act”, omit the comma and insert “and”; and
- (b) after “the Lugano Convention”, omit “and the Judgments Regulation”.

(14) In rule 74.11—

- (a) in the opening words—
 - (i) after “the 1982 Act”, omit the comma and insert “and”;
 - (ii) after “the Lugano Convention”, for “or” substitute “and applications for the refusal of recognition or enforcement or suspension of any judgments under”;
- (b) in sub-paragraph (a)(iii), for “article 57” substitute “article 58”; and
- (c) in sub-paragraph (b)(iii), for “article 58” substitute “articles 59 and 60”.

(15) After rule 74.11, insert—

“Adaptation of certain orders in foreign judgments subject to the Judgments Regulation

74.11A.—(1) In this rule, an “adaptation order” means an order for the adaptation of a legal remedy which is contained in a foreign judgment but is unknown under the law of England and Wales pursuant to article 54 of the Judgments Regulation.

(2) The court may make an adaptation order on its own initiative or on an application by any party.

(3) In accordance with article 54(1) of the Judgments Regulation, an adaptation order may only result in a remedy whose legal effects are equivalent to those contained in the judgment and which does not produce such effects extending beyond those provided for under the law of England and Wales.

(4) An application for an adaptation order or a challenge under article 54(2) of the Judgments Regulation to the adaptation of any measure without an adaptation order must be made—

- (a) to the High Court; and
- (b) in accordance with Part 23.”.

(16) In rule 74.12—

- (a) in paragraph (1)(d), for “article 54” the first time it occurs substitute “article 53”; and
- (b) for paragraph (2), substitute—

“(2) A judgment creditor who wishes to enforce in a foreign country a judgment obtained in the High Court or in the County Court—

- (a) must apply for a certified copy of the judgment; and
- (b) if applying under article 53 of the Judgments Regulation, must apply to the court which gave the judgment by filing a draft of the certificate in the form in Annex I to the Judgments Regulation.”.

(17) In rule 74.19—

- (a) in the definition of “Community judgment”—
 - (i) in sub-paragraph (i), for “article 244 or 256 of the Treaty establishing the European Community” substitute “article 280 or 299 of the Treaty on the Functioning of the European Union”;
 - (ii) in sub-paragraph (ii), omit “, 159”;
 - (iii) omit sub-paragraph (iii);
 - (iv) in sub-paragraph (iv), for “82 of Council Regulation (EC) 40/94 of 20 December 1993” substitute “86 of Council Regulation (EC) 207/2009 of 26 February 2009”;
 - (v) at the end of sub-paragraph (iv), omit “or”; and
 - (vi) after sub-paragraph (iv), insert—
 - “(v) article 71 of Council Regulation (EC) 6/2002 of 12 December 2001 on Community designs;
 - (vi) article 36a or 36b of Regulation (EC) 1060/2009 on credit rating agencies; or
 - (vii) article 65 or 66 of Regulation (EU) 648/2012 on OTC derivatives, central counterparties and trade repositories;”;
- (b) in the definition of “Euratom inspection order”, for “Communities” substitute “Union”; and
- (c) in the definition of “European Court”, for “Communities” substitute “Union”.

Transitional provisions

6.—(1) For the purposes of proceedings, judgments and authentic instruments and court settlements to which, by virtue of article 66(2) of the Judgments Regulation, the previous Judgments Regulation continues to apply—

- (a) the amendments made by rules 4 and 5 of these Rules do not apply; and
- (b) the Civil Procedure Rules 1998 continue to have effect as if those amendments had not been made.

(2) In this rule—

- (a) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(**a**) as amended from time to time and as applied by virtue of the Agreement made on 19 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(**b**); and
- (b) “the previous Judgments Regulation” means Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(**c**), as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the

(a) OJ No. L 351, 20.12.2012, p.1

(b) OJ No. L 299, 16.11/2005, p62; OJ No. L 79, 21.3.2013, p4

(c) OJ No. L 12, 16.1.2001, p.1

Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters^(a).

*The Right Honourable Lord Dyson, MR
Stephen Richard, LJ
Peter Coulson, J
Philip Sales, J
Master Richard Roberts
His Honour Judge Martin McKenna
District Judge Michael Hovington
District Judge Christopher Lethem
Andrew Underwood
Richard Viney
Kate Wellington*

I allow these Rules

Signed by authority of the Lord Chancellor

10th November 2014

Edward Faulks
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules amend the Civil Procedure Rules 1998 (CPR) to ensure that the provisions of the CPR governing procedure in relation to the recognition and enforcement of judgments as between courts in England and Wales and courts in other EU Member States are consistent with the provisions of Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (“the recast Judgments Regulation”).

The recast Judgments Regulation, which comes into force on 10th January 2015, replaces Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“the original Judgments Regulation”). The recast Judgments Regulation contains revised provisions both on jurisdiction, and on recognition and enforcement of judgments. The provisions on jurisdiction are not the subject of provision in the CPR, but the CPR do contain provision, in Part 74, in relation to recognition and enforcement which requires amendment to reflect the provision in the recast Judgments Regulation. The main change in the recast Judgment Regulation in relation to recognition and enforcement of judgments is the removal of the process known as *exequatur* which, under the original Judgments Regulation, requires a judgment of a court in another Member State which is to be enforced in one of the jurisdictions in the United Kingdom to undergo a process of registration and a declaration of enforceability in the relevant jurisdiction before it can be enforced there. Part 74 of the CPR contains provisions for this process in England and Wales, and it is those provisions which these Rules amend.

(a) OJ No. L 299, 16.11/2005, p62

Rule 4 of these Rules amends Part 6 of the CPR to replace references to the original Judgments Regulation with references to the recast Judgments Regulation.

Rule 5 of these Rules amends Part 74 of the CPR—

- to replace references to the original Judgments Regulation and provisions of that version of the Regulation with references to the recast Judgments Regulation and provisions of the recast Judgments Regulation;
- to remove requirements for registration or a declaration of enforceability before a judgment of a court in another Member State can be enforced under the recast Judgments Regulation in England and Wales;
- to make provision for the procedure for the making of an “adaptation order” pursuant to article 54 of the recast Judgments Regulation, whereby a legal remedy contained in a foreign judgment but unknown to the law of England and Wales may be adapted for the purposes of enforcing the judgment to a remedy which is known to the law of England and Wales.

Rule 6 of these Rules makes transitional and saving provision. The transitional provisions in article 66 of the recast Judgments Regulation have the effect that the original Judgments Regulation will continue to apply, in relation to judgments arising from existing proceedings, for a significant period. Rather than have two sets of provisions in the CPR (one for the original Judgments Regulation, and one for the recast Judgments Regulation), the approach adopted is to remove from the CPR the provisions relating to the original Judgments Regulation, but to provide (in rule 5 of these Rules) for the amendments to the CPR not to apply where the original Judgments Regulation continues to apply, so that the provisions relating to the original Judgments Regulation also continue to apply.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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