
STATUTORY INSTRUMENTS

2014 No. 3299

The Civil Procedure (Amendment No. 8) Rules 2014

Amendments to the Civil Procedure Rules 1998

13. In Part 74—

(a) in the table of contents, after the entry for rule 74.33 insert—

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(b) after rule 74.1(4A) insert—

“(4B) Section VI applies to—

- (a) the certification in England and Wales of outgoing protection measures; and
- (b) the enforcement in England and Wales of certified protection measures from Member States of the European Union other than the United Kingdom or Denmark.”;
- (c) after rule 74.33 insert—

“VI Recognition and enforcement of protection measures

Interpretation

74.34. In this Section—

- (a) “Article 5 certificate” means a certificate issued under Article 5 of the Protection Measures Regulation;
- (b) “Article 8 notice” means the notification required by Article 8 of the Protection Measures Regulation;
- (c) “Article 11 notice” means the notification required by Article 11 of the Protection Measures Regulation;
- (d) “Article 14 certificate” means a certificate issued under Article 14 of the Protection Measures Regulation;
- (e) “incoming protection measure” means a protection measure that has been ordered in a Member State of the European Union other than the United Kingdom or Denmark;
- (f) “outgoing protection measure” means any protection measure included in any of—
 - (i) an injunction issued for the purpose mentioned in section 3(3)(a) of the Protection from Harassment Act 1997⁽¹⁾;
 - (ii) any other injunction or order of the County Court;
 - (iii) an undertaking accepted by the County Court;
 - (iv) in proceedings to which these Rules apply—
 - (aa) any other injunction or order of the High Court;
 - (bb) an undertaking accepted by the High Court;
- (g) “person causing the risk” has the meaning given to it in the Protection Measures Regulation;
- (h) “protected person” has the meaning given to it in the Protection Measures Regulation;
- (i) “protection measure” has the meaning given to it in the Protection Measures Regulation;
- (j) “Protection Measures Regulation” means Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12th June 2013 on mutual recognition of protection measures in civil matters⁽²⁾.

(1) 1997 c.40, amended by the Crime and Courts Act 2013 (c.22), section 17(5), Schedule 9 Part 2, paragraph 39(a).

(2) OJNo. L 181, 29.6.2013, p.4.

Procedure for applications in this Section

74.35. Subject to the rules in this Section, applications under the Protection Measures Regulation to the County Court or to the High Court must be made in accordance with Part 23.

OUTGOING PROTECTION MEASURES

Application for an Article 5 certificate

- 74.36.**—(1) A protected person may apply for an Article 5 certificate—
- (a) at the time of application for an injunction or other order containing an outgoing protection measure; or
 - (b) at any time after such application, provided—
 - (i) the order or undertaking containing the outgoing protection measure has not yet been made or accepted as the case may be; or
 - (ii) the outgoing protection measure is still in force.
- (2) An application for an Article 5 certificate may be made without notice.

The court to which an application for an Article 5 certificate must be made

- 74.37.** An application for an Article 5 certificate must be made—
- (a) where the outgoing protection measure has not yet been ordered or accepted—
 - (i) to the County Court if the proceedings relating to the outgoing protection measure are before the County Court; or
 - (ii) to the High Court if the proceedings relating to the outgoing protection measure are before the High Court; or
 - (b) where the outgoing protection measure has been ordered or accepted—
 - (i) to the County Court if that court made the order or accepted the undertaking as the case may be; or
 - (ii) to the High Court if that court made the order or accepted the undertaking as the case may be.

When a request for a translation of an Article 5 certificate may be made

- 74.38.** A protected person may request a translation of an Article 5 certificate—
- (a) at the time of application for the Article 5 certificate; or
 - (b) at any time after such application, provided the Article 5 certificate—
 - (i) has not yet been issued; or
 - (ii) if issued, is still in force.

The court to which a request for a translation of an Article 5 certificate must be made

- 74.39.** A request for a translation of an Article 5 certificate must be made—
- (a) if the certificate has not yet been issued, to—
 - (i) the County Court if the application for the certificate is before the County Court;

- (ii) the High Court if the application for the certificate is before the High Court;
- (b) if the certificate has been issued, to—
 - (i) the County Court if the County Court issued it;
 - (ii) the High Court if the High Court issued it.

Service requirements under Article 6

74.40.—(1) Where the outgoing protection measure is included in an order, the court may only issue an Article 5 certificate if satisfied that the order has been served on the person causing the risk in accordance with the requirements specified in rule 81.5, unless the court has dispensed with service of the order in accordance with the requirements specified in rule 81.8.

(2) Where the protected person is responsible for serving the order on the person causing the risk, any application for an Article 5 certificate must be accompanied by a certificate of service.

Notification of the certificate under Article 8

74.41.—(1) Subject to paragraph (2), Article 8 notice must be given to the person causing the risk by serving it in accordance with Section III of Part 6 and the rules in that Section shall apply to service of the notice as they apply to any other document to be served.

(2) If the person causing the risk resides in a Member State of the European Union other than the United Kingdom or in a country outside the European Union, Article 8 notice must be given by sending it by registered letter with acknowledgement of receipt or confirmation of delivery or equivalent to the last known place of residence of that person.

Rectification of an Article 5 certificate

74.42.—(1) An application pursuant to Article 9 of the Protection Measures Regulation for rectification of an Article 5 certificate must be made to—

- (a) the County Court if the County Court issued the certificate;
- (b) the High Court if the High Court issued the certificate.

(2) An application for such rectification may be made by—

- (a) the protected person; or
- (b) the person causing the risk.

(3) An Article 5 certificate may be rectified pursuant to Article 9(1)(a) of the Protection Measures Regulation by the court—

- (a) on application under this rule; or
- (b) on its own initiative.

Withdrawal of an Article 5 certificate

74.43.—(1) An application pursuant to Article 9 of the Protection Measures Regulation for withdrawal of an Article 5 certificate must be made to—

- (a) the County Court if the County Court issued the certificate;
- (b) the High Court if the High Court issued the certificate.

- (2) An application for such withdrawal may be made by—
 - (a) the protected person; or
 - (b) the person causing the risk.
- (3) An Article 5 certificate may be withdrawn pursuant to Article 9(1)(b) of the Protection Measures Regulation by the court—
 - (a) on application under this rule; or
 - (b) on its own initiative.

When an application for an Article 14 certificate may be made

74.44. A protected person or person causing the risk may apply for an Article 14 certificate—

- (a) at the time of application to vary or set aside the order containing the outgoing protection measure, or for acceptance of a variation or setting aside of the undertaking containing the outgoing protection measure, as the case may be;
- (b) at any time after the order containing the outgoing protection measure has been varied or set aside or a variation or setting aside of the undertaking containing the outgoing protection measure has been accepted, as the case may be;
- (c) at any time after an Article 5 certificate has been withdrawn under Article 9 of the Protection Measures Regulation; or
- (d) on, or at any time after, the making of an order staying or suspending enforcement of the order or undertaking containing the outgoing protection measure.

The court to which an application for an Article 14 certificate must be made

74.45. An application for an Article 14 certificate must be made—

- (a) if the order containing the outgoing protection measure has not yet been varied or set aside or a variation or setting aside of the undertaking containing the protection measure has not yet been accepted, as the case may be, to—
 - (i) the County Court if the application for such variation or setting aside is before the County Court; or
 - (ii) the High Court if the application for such variation or setting aside is before the High Court; or
- (b) if there has been an application under Article 9 of the Protection Measures Regulation for withdrawal of the Article 5 certificate, and that application has not yet been decided, to—
 - (i) the County Court if the application for such withdrawal is before the County Court; or
 - (ii) the High Court if the application for such withdrawal is before the High Court; or
- (c) if the order containing the outgoing protection measure has been varied or set aside, or a variation or setting aside of the undertaking containing the outgoing protection measure has been accepted, to—
 - (i) the County Court if the County Court ordered or accepted such variation or setting aside, as the case may be; or

- (ii) the High Court if the High Court ordered or accepted such variation or setting aside, as the case may be; or
 - (d) if an Article 5 certificate has been withdrawn under Article 9, to—
 - (i) the County Court if the County Court ordered such withdrawal;
 - (ii) the High Court if the High Court ordered such withdrawal; or
 - (e) where enforcement of the order has been stayed or suspended, to—
 - (i) the County Court if the County Court made the order for the stay or suspension; or
 - (ii) the High Court if the High Court made the order for the stay or suspension.
- INCOMING PROTECTION MEASURES

Application for adjustment under Article 11

74.46. A protected person may apply to the court under Article 11 of the Protection Measures Regulation to adjust the factual elements of an incoming protection measure.

Notification of the adjustment under Article 11

74.47.—(1) Subject to paragraph (2), Article 11 notice must be given to the person causing the risk by serving it in accordance with Section III of Part 6 and the rules in that Section apply to service of the notice as they apply to any other document to be served.

(2) If the person causing the risk resides in a Member State of the European Union other than the United Kingdom or in a country outside the European Union, Article 11 notice must be given by sending it by registered letter with acknowledgment of receipt or other confirmation of delivery or equivalent to the last known place of residence of that person.

Enforcement of an incoming protection measure

74.48. Section II of Part 81 applies to applications in relation to a breach of an incoming protection measure as if the incoming protection measure had been ordered by the County Court.

Application for refusal of recognition or enforcement under Article 13

74.49. A person causing the risk may apply to the court under Article 13 of the Protection Measures Regulation for refusal of recognition or enforcement of an incoming protection measure.

Application under Article 14(2)

74.50.—(1) This rule applies where an Article 14 certificate has been issued in a Member State of the European Union other than the United Kingdom or Denmark.

(2) A protected person or person causing the risk may apply to the court to stay, suspend or withdraw the effects of recognition or, where applicable, the enforcement of the protection measure.

(3) An application under this rule must include a copy of the Article 14 certificate issued in the other Member State.

(4) On an application under this rule, the court must make such orders or give such directions as may be necessary to give effect to the Article 14 certificate.”

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
