



# Civil Jurisdiction and Judgments Act 1982

## 1982 CHAPTER 27

### 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.
- (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.
- (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.

#### **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—

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- (a) proceedings have been or are to be commenced in a Contracting 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
  - (b) they are or will be proceedings whose subject-matter is within the scope of the 1968 Convention as determined by Article 1 (whether or not the Convention 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 Contracting State;
  - (b) proceedings whose subject-matter is not within the scope of the 1968 Convention as determined by Article 1;
  - (c) arbitration proceedings.
- (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.
- (5) An Order in Council under subsection (3) which confers power to grant interim relief in relation to arbitration proceedings may provide for the repeal of any provision of section 12(6) of the Arbitration Act 1950 or section 21(1) of the Arbitration Act (Northern Ireland) 1937 to the extent that it is superseded by the provisions of the Order.
- (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.

## **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 to arbitration or 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 arbitration or 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 arbitration or 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.

## **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 ; 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 Contracting State or in England and Wales or Northern Ireland ;
  - (b) the subject-matter of the proceedings is within the scope of the 1968 Convention as determined by Article 1 ; and
  - (c) in relation to paragraphs (a) and (b) 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 Contracting State;
  - (b) proceedings whose subject-matter is not within the scope of the 1968 Convention as determined by Article 1;
  - (c) arbitration proceedings;

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- (d) in relation to subsection (1)(c) or section 28, proceedings which are to be commenced otherwise than in a Contracting 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.
- (5) Any Order in Council under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **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 Contracting State or in England and Wales or Northern Ireland in respect of any matter which is within the scope of the 1968 Convention as determined in Article 1, the Court of Session shall have the like power to make an order under section 1 of the Administration of Justice (Scotland) Act 1972 as if the proceedings in question had been brought, or were likely to be brought, in that court.

## **29 Service of county court process outside Northern Ireland**

The County Court Rules Committee established by Article 46 of the 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.”.

## **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 and to the provisions set out in Schedule 4.

*Provisions relating to recognition and enforcement of judgments*

**31 Overseas judgments given against states, etc.**

- (1) A judgment 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 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 Foreign Judgments (Reciprocal Enforcement) Act 1933 applies by virtue of section 4 of the Carriage of Goods by Road Act 1965, section 17(4) of the Nuclear Installations Act 1965, section 13(3) of the Merchant Shipping (Oil Pollution) Act 1971, section 5 of the Carriage by Railway Act 1972 or section 5 of the Carriage of Passengers by Road Act 1974.
- (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.

**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—
  - (a) a judgment which is required to be recognised or enforced there under the 1968 Convention ;
  - (b) a judgment to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 applies by virtue of section 4 of the Carriage of Goods by Road Act 1965, section 17(4) of the Nuclear Installations Act 1965, section 13(3) of the Merchant Shipping (Oil Pollution) Act 1971, section 5 of the Carriage by Railway Act 1972, section 5 of the Carriage of Passengers by Road Act 1974 or section 6(4) of the Merchant Shipping Act 1974.

### **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.

### **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 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.
- (2) For section 10 of the Administration of Justice Act 1920 (issue of certificates of judgments obtained in the United Kingdom) there shall be substituted—
  - (1) Where—
    - (a) a judgment 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 judgment creditor wishes to secure the enforcement of the judgment 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 judgment creditor, issue to him a certified copy of the judgment.
  - (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.”.
- (3) In section 14 of the 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.”.

### **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 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 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.
- (4) Where an order is registered in Northern Ireland under this section, Part II of the 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.
- (5) A court of summary jurisdiction in Northern Ireland shall have jurisdiction to hear a complaint 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 a complaint is made against a person residing outside Northern Ireland, then, if he resides in England and Wales or Scotland, section 15 of the Maintenance Orders Act 1950 (which relates to the service of process on persons residing in those countries) shall have effect in relation to the complaint as it has effect in relation to the proceedings therein mentioned.
- (6) The enactments specified in Part III of Schedule 12 shall have effect with the amendments specified there, being amendments consequential on this section.

### **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 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.
- (2) In section 27(1) of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (application by person in convention country for recovery of maintenance in England and Wales or Northern Ireland to be treated as a complaint), after " as if it were a complaint" there shall be inserted " made at the time when the application was received by the Secretary of State or the Lord Chancellor " .

### **38 Overseas judgments counteracting an award of multiple damages**

- (1) Section 7 of the 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 judgment for multiple damages given in a third country) shall be amended as follows.
- (2) In subsection (1) for " judgments 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 judgment 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 judgment; and
  - (b) impose conditions or restrictions on the enforcement of judgments of any description.”.

*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 ;
  - (c) Gibraltar;
  - (d) the Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960).
- (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 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.

### *Legal aid*

### **40 Power to modify enactments relating to legal aid, etc.**

- (1) In section 20 of the Legal Aid Act 1974 (power of Lord Chancellor to make regulations), after subsection (4) there shall be inserted as subsection (4A)—
- “(4A) Without prejudice to the preceding provisions of this section or any other provision of this Part of this Act authorising the making of regulations, regulations may also modify the provisions of, or of any instrument having effect under, this Part of this Act (including so much of any of those provisions as specifies a sum of money) for the purposes of the application of those provisions—

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- (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 England and Wales of judgments given outside the United Kingdom for whose recognition or enforcement in the United Kingdom provision is made by any international agreement.”.
- (2) In section 15 of the Legal Aid (Scotland) Act 1967 (power of Secretary of State to make regulations), after subsection (4) there shall be inserted as subsection (4A)—
  - “(4A) Without prejudice to the preceding provisions of this section or any other provision of this Act authorising the making of regulations, regulations may also modify the provisions of, or of any instrument having effect under, this Act (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 Secretary of State 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 Scotland of judgments given outside the United Kingdom for whose recognition or enforcement in the United Kingdom provision is made by any international agreement.”.
- (3) In Article 22 of the 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 is made by any international agreement.”.