

D R A F T S T A T U T O R Y I N S T R U M E N T S

2019 No. 0000

EXITING THE EUROPEAN UNION

PRIVATE INTERNATIONAL LAW

**The Civil Jurisdiction and Judgments (Amendment) (EU Exit)
Regulations 2019**

Made - - - -

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before, and approved by, a resolution of each House of Parliament.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

(2) Subject to paragraph (3), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) Any amendment made by these Regulations has the same extent as the provision it amends.

PART 2

Amendment of primary legislation

Administration of Justice Act 1970

2. In the Administration of Justice Act 1970(a), in Schedule 8 (maintenance orders for the purpose of the Maintenance Orders Act 1958), omit paragraphs 13 and 13A.

Attachment of Earnings Act 1971

3. In the Attachment of Earnings Act 1971(b), in Schedule 1 (maintenance orders to which this Act applies)—

- (a) omit paragraph 13 (orders under Part 1 of the Civil Jurisdiction and Justice Act 1982);
- (b) omit paragraph 14 (orders under Council Regulation (EC) No 44/2001).

Civil Jurisdiction and Judgments Act 1982

4. The Civil Jurisdiction and Judgments Act 1982(c) is amended as follows.

5. For the italic cross-heading preceding section 1 substitute “*Interpretation*”.

6.—(1) Section 1 (interpretation of references to the Brussels and other Conventions and Contracting States) is amended as follows.

(2) In subsection (1)—

- (a) omit the definitions of—
 - (i) “the 1996 Accession Convention”;
 - (ii) “the Brussels Conventions”;
 - (iii) “the Lugano Convention”;
- (b) in the definition of “the Regulation”—
 - (i) omit “as amended from time to time and”; and
 - (ii) after “p4”, insert “as that Regulation had effect and was applied immediately before exit day”.

(3) Omit subsection (2).

(4) In subsection (3)—

- (a) in the definition of “Contracting State”, omit paragraphs (a) and (b);
- (b) omit the definition of “Brussels Contracting State”;
- (c) omit the definitions of—
 - (i) “State bound by the Lugano Convention”;
 - (ii) “Regulation State”.

(5) Omit subsection (4).

7. Omit section 2 (the Brussels Conventions to have the force of law).

8. Omit section 3 (interpretation of the Brussels Conventions).

9. In the italic cross-heading preceding section 4, omit “*Supplementary*”.

(a) 1970 c. 31.
(b) 1971 c. 32
(c) 1982 c. 27.

10. Omit section 4 (enforcement of judgments, other than maintenance orders, under the 1968 Convention).

11. Omit section 4A (enforcement of judgments, other than maintenance orders, under the Lugano Convention).

12. Omit section 5 (recognition and enforcement of maintenance orders: applications under Article 31 of the 1968 Convention).

13. Omit section 5A (recognition and enforcement of maintenance orders under the Lugano Convention).

14. Omit section 6 (appeals under Articles 37(2) and 41 of the 1968 Convention).

15. Omit section 6A (appeals under Article 44 and Annex IV of the Lugano Convention).

16.—(1) Section 7 (interest on registered judgments) is amended as follows.

(2) In subsection (1)—

- (a) omit “Subject to subsection (4),”;
- (b) omit “4, 4A,”;
- (c) omit “, 5 or 5A”;
- (d) omit “apart from section 4(2),”.

(3) Omit subsection (3).

(4) Omit subsection (4).

(5) In subsection (5)—

- (a) omit “Except as mentioned in subsection (4),”;
- (b) omit “4, 4A,”;
- (c) omit “, 5 or 5A”.

17. Omit section 8 (currency of payment under registered maintenance orders).

18.—(1) Section 9 (provisions supplementary to Title VII of the 1968 Convention) is amended as follows.

(2) In the heading, for “Provisions supplementary to Title VIII of 1968 Convention” substitute “Provisions supplementary to Article 26 of the 2005 Hague Convention”.

(3) In subsection (1)—

- (a) omit the words from the beginning to “Lugano Convention and”;
- (b) for “the Convention in question” substitute “the 2005 Hague Convention”.

19. Omit section 10 (allocation within UK of jurisdiction with respect to trusts and consumer contracts where section 16 does not apply).

20. Omit section 11 (proof and admissibility of certain judgments and related documents).

21. Omit section 11A (proof and admissibility of certain judgments and related documents for the purposes of the Lugano Convention).

22. In section 12 (provision for issue of copies of, and certificates in connection with, UK judgments), omit “the 1968 Convention, the Lugano Convention or”.

23. Omit section 13 (modifications to cover authentic instruments and court settlements).

24. Omit section 14 (modifications consequential on revision of the Brussels Conventions).

25.—(1) Section 15 (interpretation of Part 1 and consequential amendments) is amended as follows.

(2) In subsection (1)—

- (a) in the definition of “judgment”, omit the words from “Article 25” to “Lugano Convention or”;
 - (b) omit the definition of “maintenance order”;
 - (c) omit the definition of “payer”.
- (3) In subsection (2)—
- (a) omit “4, 4A,”;
 - (b) omit “, 5 or 5A”.
- (4) In subsection (3), omit the words from “the 1968” to “Lugano Convention or”.
- 26.** Before section 16, insert—

“Jurisdiction in consumer and employment matters

Scope of sections 15B to 15E

15A.—(1) Sections 15B to 15E make provision about the jurisdiction of courts in the United Kingdom—

- (a) in matters relating to consumer contracts where the consumer is domiciled in the United Kingdom;
- (b) in matters relating to individual contracts of employment.

(2) Sections 15B and 15C apply only if the subject-matter of the proceedings and the nature of the proceedings are within the scope of the Regulation as determined by Article 1 of the Regulation (whether or not the Regulation would have had effect before exit day in relation to the proceedings).

(3) Sections 15B to 15E do not apply to proceedings of a description listed in Schedule 5 or to proceedings in Scotland under an enactment which confers jurisdiction on a Scottish court in respect of a specific subject-matter on specific grounds.

Jurisdiction in relation to consumer contracts

15B.—(1) This section applies in relation to proceedings whose subject-matter is a matter relating to a consumer contract where the consumer is domiciled in the United Kingdom.

(2) The consumer may bring proceedings against the other party to the consumer contract—

- (a) where the other party to the consumer contract is domiciled in the United Kingdom, in the courts of the part of the United Kingdom in which the other party to the consumer contract is domiciled, or
- (b) in the courts for the place where the consumer is domiciled (regardless of the domicile of the other party to the consumer contract).

(3) Proceedings may be brought against the consumer by the other party to the consumer contract only in the courts of the part of the United Kingdom in which the consumer is domiciled.

(4) Subsections (2) and (3) are subject to rule 11 of Schedule 4 (and rule 14 of Schedule 4 has effect accordingly).

(5) Subsections (2) and (3) do not affect—

- (a) the right (under rule 5(c) of Schedule 4 or otherwise) to bring a counterclaim in the court in which, in accordance with subsection (2) or (3), the original claim is pending,
- (b) the operation of rule 3(e) or (h)(ii) of Schedule 4, or
- (c) the operation of any other rule of law which permits a person not domiciled in the United Kingdom to be sued in the courts of a part of the United Kingdom.

(6) Subsections (2) and (3) may be departed from only by an agreement—

- (a) which is entered into after the dispute has arisen,
- (b) which allows the consumer to bring proceedings in courts other than those indicated in this section, or
- (c) which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the United Kingdom and in the same part of the United Kingdom, and which confers jurisdiction on the courts of that part of the United Kingdom, provided that such an agreement is not contrary to the law of that part of the United Kingdom.

(7) For the purposes of this section, where a consumer enters into a consumer contract with a party who is not domiciled in the United Kingdom, the other party to the contract is deemed to be domiciled in a particular part of the United Kingdom if that party has a branch, agency or establishment in that part of the United Kingdom and the dispute arose out of the operations of that branch, agency or establishment.

Jurisdiction in relation to individual contracts of employment

15C.—(1) This section applies in relation to proceedings whose subject-matter is a matter relating to an individual contract of employment.

(2) The employer may be sued by the employee—

- (a) where the employer is domiciled in the United Kingdom, in the courts for the part of the United Kingdom in which the employer is domiciled,
- (b) in the courts for the place in the United Kingdom where or from where the employee habitually carries out the employee's work or last did so (regardless of the domicile of the employer), or
- (c) if the employee does not or did not habitually carry out the employee's work in any one part of the United Kingdom, in the courts for the place in the United Kingdom where the business which engaged the employee is situated (regardless of the domicile of the employer).

(3) If the employee is domiciled in the United Kingdom, the employer may only sue the employee in the part of the United Kingdom in which the employee is domiciled (regardless of the domicile of the employer).

(4) Subsections (2) and (3) are subject to rule 11 of Schedule 4 (and rule 14 of Schedule 4 has effect accordingly).

(5) Subsections (2) and (3) do not affect—

- (a) the right (under rule 5(c) of Schedule 4 or otherwise) to bring a counterclaim in the court in which, in accordance with subsection (2) or (3), the original claim is pending,
- (b) the operation of rule 3(e) of Schedule 4,
- (c) the operation of rule 5(a) of Schedule 4 so far as it permits an employer to be sued by an employee, or
- (d) the operation of any other rule of law which permits a person not domiciled in the United Kingdom to be sued in the courts of a part of the United Kingdom.

(6) Subsections (2) and (3) may be departed from only by an agreement which—

- (a) is entered into after the dispute has arisen, or
- (b) allows the employee to bring proceedings in courts other than those indicated in this section.

(7) For the purposes of this section, where an employee enters into an individual contract of employment with an employer who is not domiciled in the United Kingdom, the employer is deemed to be domiciled in the relevant part of the United Kingdom if the employer has a branch, agency or other establishment in that part of the United Kingdom and the dispute arose from the operation of that branch, agency or establishment.

Further provision as to jurisdiction

15D.—(1) Agreements or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of section 15B(6) or 15C(6).

(2) Even if it would not otherwise have jurisdiction under section 15B or 15C, a court of a part of the United Kingdom before which a defendant enters an appearance has jurisdiction in those proceedings.

(3) Subsection (2) does not apply where —

- (a) appearance was entered to contest the jurisdiction, or
- (b) another court in the United Kingdom has exclusive jurisdiction by virtue of rule 11 of Schedule 4.

(4) Subsection (2) does not apply if the defendant is the consumer or employee in relation to the subject-matter of the proceedings, unless the defendant is informed by the court of—

- (a) the defendant’s right to contest the jurisdiction, and
- (b) the consequences of entering or not entering an appearance.

(5) Subsection (6) applies where—

- (a) a defendant domiciled in the United Kingdom is sued in a court of a part of the United Kingdom other than the part in which the defendant is domiciled and does not enter an appearance, and
- (b) the subject-matter of the proceedings is a matter in relation to which section 15B or 15C applies.

(6) The court must—

- (a) declare of its own motion that it has no jurisdiction, unless it has jurisdiction by virtue of section 15B or 15C or a rule referred to in section 15B(4) or (5) or 15C(4) or (5);
- (b) stay the proceedings so long as it is not shown that—
 - (i) the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable the defendant to arrange for the defendant’s defence, or
 - (ii) all necessary steps have been taken to this end.

(7) Application may be made to the courts of a part of the United Kingdom for such provisional, including protective, measures as may be available under the law of that part, even if, by virtue of section 15B or 15C or this section, the courts of another part of the United Kingdom have jurisdiction as to the substance of the matter.

Interpretation

15E.—(1) In sections 15A to 15D and this section—

“consumer”, in relation to a consumer contract, means a person who concludes the contract for a purpose which can be regarded as being outside the person’s trade or profession;

“consumer contract” means—

- (a) a contract for the sale of goods on instalment credit terms,
- (b) a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods, or
- (c) a contract which has been concluded with a person who—
 - (i) pursues commercial or professional activities in the part of the United Kingdom in which the consumer is domiciled, or
 - (ii) by any means, directs such activities to that part or to other parts of the United Kingdom including that part,and which falls within the scope of such activities,

but it does not include a contract of transport other than a contract which, for an inclusive price, provides for a combination of travel and accommodation or a contract of insurance, “defendant” includes defender.

(2) In determining any question as to the meaning or effect of any provision contained in sections 15A to 15D and this section—

- (a) regard is to be had to any relevant principles laid down before exit day by the European Court in connection with Title II of the 1968 Convention or Chapter 2 of the Regulation and to any relevant decision of that court before exit day as to the meaning or effect of any provision of that Title or Chapter, and
- (b) without prejudice to the generality of paragraph (a), the expert reports relating to the 1968 Convention may be considered and are, so far as relevant, to be given such weight as is appropriate in the circumstances.”

27. Before section 16, but after the provision inserted by regulation 26, insert—

“Jurisdiction in other civil proceedings”.

28.—(1) Section 16 (allocation within UK of jurisdiction in certain civil proceedings) is amended as follows.

(2) In subsection (1)(a), for “has effect” substitute “would have had effect before exit day”.

(3) After subsection (1), insert—

“(1A) This section and Schedule 4 do not apply for the purposes of determining jurisdiction in proceedings in relation to which section 15B, 15C or 15D(2) applies, except as specified in those sections.”.

(4) In subsection (3)(b), for “the reports mentioned in section 3(3)” substitute “the expert reports relating to the 1968 Convention”.

(5) After subsection (3) insert—

“(3A) The requirement in subsection (3)(a) applies only in relation to principles laid down, or decisions made, by the European Court before exit day.”.

(6) In subsection (4)—

- (a) omit “the Regulation,”;
- (b) omit “the 1968 Convention, the Lugano Convention”;
- (c) for “section 17” substitute “sections 15B, 15C, 15D and 17”.

29. Before section 18, insert—

“Recognition of judgments”.

30. In section 18 (enforcement of UK judgments in other parts of the UK), in subsection (7), omit “or section 4 or 5 of this Act”.

31.—(1) Section 20 (rules as to jurisdiction in Scotland) is amended as follows.

(2) In subsection (1), omit “the Regulation, to”.

(3) In subsection (5)(b), for “the reports mentioned in section 3(3)” substitute “the expert reports relating to the 1968 Convention”.

(4) After subsection (5) insert—

“(6) The requirement in subsection (5)(a) applies only in relation to principles laid down, or decisions made, by the European Court before exit day.”

32.—(1) Section 24 (interim relief and protective measures in cases of doubtful jurisdiction) is amended as follows.

(2) In subsection (1)—

- (a) omit paragraph (b), the “or” preceding it, and the “or” following it;
- (b) omit paragraph (c) and the “or” following it.

(3) In subsection (2)—

- (a) omit paragraph (b), the “or” preceding it, and the “or” following it;
- (b) omit paragraph (c) and the “or” following it.

33.—(1) Section 25 (interim relief in England and Wales and Northern Ireland in the absence of substantive proceedings) is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a)—
 - (i) omit “a Brussels Contracting State or a State bound by the Lugano Convention or”;
 - (ii) omit “or a Regulation State”;
- (b) in paragraph (b)—
 - (i) omit “either within the scope of the Regulation, as determined by Article 1 of the Regulation,”;
 - (ii) omit “within scope of the Lugano Convention as determined by Article 1 of the Lugano Convention or”;
 - (iii) omit “the Regulation” in the third place it occurs;
 - (iv) omit “the Lugano Convention or” in the second place it occurs.

(3) In subsection (3)—

- (a) in paragraph (a)—
 - (i) omit “a Brussels Contracting State or a State bound by the Lugano Convention or”;
 - (ii) omit “or Regulation State”;
- (b) in paragraph (b)—
 - (i) omit “the Regulation as determined by Article 1 of the Regulation,”;
 - (ii) omit “the Lugano Convention as determined by Article 1 of the Lugano Convention or”.

34.—(1) Section 27 (provisional and protective measures in Scotland in the absence of substantive proceedings) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a), omit “in another Brussels or Lugano Contracting State, in another Regulation State,”;
- (b) in paragraph (b), omit “is within the scope of the Regulation as determined by Article 1 of the Regulation,”.

(3) In subsection (3)—

- (a) in paragraph (a), omit “a Brussels, Lugano Contracting State, Regulation State or”;
- (b) in paragraph (b), omit “the Regulation as determined by Article 1 of the Regulation or”;
- (c) in paragraph (d), omit “a Brussels or Lugano Contracting State, Regulation State,”.

35. In section 28 (application of section 1 of Administration of Justice (Scotland) Act 1972), in subsection (1), omit “in another Brussels or Lugano Contracting State, in a Regulation State,”.

36. In section 30 (proceedings in England and Wales or Northern Ireland for torts to immovable property), in subsection (2), omit the words from “the 1968” to “and to”.

37. In section 32 (overseas judgments given in proceedings brought in breach of agreement for settlement of disputes), in subsection (4)(a), omit the words from “, the 1968” to “the Regulation”.

38. In section 33 (certain steps not to amount to submission to jurisdiction of overseas court), in subsection (2), omit the words from “the 1968” to “the Regulation or”.

39.—(1) Section 41 (domicile of individuals) is amended as follows.

- (2) In subsection (1)—
 - (a) omit the words from the beginning to “in a Contracting State.”;
 - (b) omit “the 1968 Convention and”;
 - (c) omit “or in a state other than a Contracting State”.
- (3) Omit subsection (7).
- 40.** Omit section 41A (domicile of individuals for the purposes of the Lugano Convention).
- 41.**—(1) Section 42 (domicile and seat of corporation or association) is amended as follows.
 - (2) Omit subsection (2)(a) and the “and” following it.
 - (3) After subsection (4) insert—
 - “(4A) For the purposes of sections 15A to 15E and rules 1, 2, 3, 5, 11(a)(ii) and 15(1) in Schedule 4, the requirement in subsection (4) that a corporation or association has its seat in the United Kingdom is to be treated as satisfied if the corporation or association satisfies the requirement in section 42A(2) for having its domicile in the United Kingdom.”.
 - (4) In subsection (6), omit “Subject to subsection (7),”.
 - (5) After subsection (6) insert—
 - “(6A) Subsections (1), (3) and (6) are subject to section 42A.”.
 - (6) Omit subsection (7).
- 42.** After section 42 insert—

“Domicile of corporation or association for purposes of certain civil proceedings

- 42A.**—(1) This section determines whether a corporation or association is domiciled in the United Kingdom for the purposes of—
 - (a) sections 15A to 15E, and
 - (b) section 16(1)(b).
- (2) A corporation or association has its domicile in the United Kingdom if and only if—
 - (a) its registered office is at a place in the United Kingdom,
 - (b) its place of incorporation is in the United Kingdom (in a case where it has no registered office),
 - (c) the place under the law of which its formation took place is a place in the United Kingdom (in a case where it has no registered office or place of incorporation),
 - (d) its central administration is in the United Kingdom, or
 - (e) its principal place of business is in the United Kingdom.”.
- 43.**—(1) Section 43 (seat of corporation or association for the purposes of Article 16(2) of the 1968 Convention and related provisions) is amended as follows.
 - (2) In the heading, for “Article 16(2) and related” substitute “certain”.
 - (3) Omit subsection (1)(a).
 - (4) Omit subsection (6).
 - (5) Omit subsection (7).
- 44.** Omit section 43A (seat of companies or other legal persons, or of associations, for the purposes of Article 22(2) of the Lugano Convention).
- 45.** Omit section 44 (persons deemed to be domiciled in the United Kingdom for certain purposes of the 1968 Convention).
- 46.** Omit section 44A (persons deemed to be domiciled in the United Kingdom for certain purposes of the Lugano Convention).

47. In section 45 (domicile of trusts), in subsection (1), omit the words from “the 1968” to “Convention and”.

48.—(1) Section 46 (domicile and seat of the Crown) is amended as follows.

(2) In subsection (2), omit paragraph (a) and the “and” following it.

(3) In subsection (4), omit “the 1968 Convention and”.

49. Omit section 47 (modifications occasioned by decisions of European Court as to meaning or effect of the Brussels Conventions).

50.—(1) Section 48 (matters for which rules of court may provide) is amended as follows.

(2) In subsection (1), omit the words from “the Lugano” to “the Regulation,”.

(3) In subsection (2), omit paragraph (aa).

(4) In subsection (3)—

(a) omit the words from “the Lugano” to “the Regulation,”;

(b) in paragraph (a), omit “Contracting State, Regulation State,” in both places it occurs,

(c) in paragraph (b), omit “Contracting States, Regulation States,”;

(d) in paragraph (e), omit “Contracting State, Regulation State,”;

(e) in paragraph (g), omit “Contracting States, Regulation States,”.

51.—(1) In section 49 (saving for powers to stay, sist, strike out or dismiss proceedings), omit the words from “the 1968” to “Lugano Convention or”.

52.—(1) Section 50 (interpretation: general) is amended as follows.

(2) In the definition of “the Accession Convention” “the 1982 Accession Convention”, “the 1989 Accession Convention” and “the 1996 Accession Convention”, for “, “the 1989 Accession Convention” and “the 1996 Accession Convention”” substitute “and “the 1989 Accession Convention””.

(3) At the appropriate place insert—

““the expert reports relating to the 1968 Convention” means—

(a) the reports by Mr. P. Jenard on the 1968 Convention and the 1971 Protocol;

(b) the report by Professor Peter Schlosser on the Accession Convention;

(c) the report by Professor Demetrios I. Evrigenis and Professor K. D. Kerameus on the 1982 Accession Convention; and

(d) the report by Mr. Martinho de Almeida Cruz, Mr. Manuel Desantes Real and Mr. P. Jenard on the 1989 Accession Convention;”.

(4) Omit the definitions of—

(a) “Article”;

(b) “Brussels Contracting State”;

(c) “the Brussels Conventions”;

(d) “the Lugano Convention”;

(e) “Regulation State”;

(f) “State bound by the Lugano Convention”.

(5) In the definition of “tribunal”, omit paragraph (b).

53. Omit Schedule 1 (text of 1968 Convention, as amended).

54. Omit Schedule 2 (text of 1971 Protocol, as amended).

55. Omit Schedule 3 (text of Titles V and VI of the Accession Convention, as amended).

56. Omit Schedule 3A (text of Titles V and VI of the 1982 Accession Convention).

57. Omit Schedule 3B (text of Titles V and VI of the 1989 Accession Convention).

58. Omit Schedule 3BB (text of Titles V and VI of the 1996 Accession Convention).

59. In Schedule 4—

- (a) omit rules 7, 8, 9 and 10;
- (b) in rule 12(3), omit “if they are contrary to the provisions of rule 9, or”.

60. In Schedule 5 (proceedings excluded from Schedule 4), in paragraph 6, for the words from “Article 57” to “rules)” substitute “the United Kingdom is or may become a party and which governs jurisdiction or recognition and enforcement of judgments in relation to a particular matter”.

61. In Schedule 8 (rules as to jurisdiction in Scotland), in paragraph 3, omit sub-paragraph (6)(c) and the “or” preceding it.

62. In Schedule 9 (proceedings excluded from Schedule 8), in paragraph 14, for the words from “Article 57” to “rules)” substitute “the United Kingdom is or may become a party and which governs jurisdiction or recognition and enforcement of judgments in relation to a particular matter”.

Matrimonial and Family Proceedings Act 1984

63. In the Matrimonial and Family Proceedings Act 1984(a)—

- (a) in section 15 (financial relief after overseas proceedings: jurisdiction of the court) omit subsection (2);
- (b) in section 28 (circumstances in which a Scottish court may entertain application for financial provision) omit subsection (4);
- (c) in section 31L (enforcement), in subsection (8)(c)—
 - (i) for “1958,” substitute “1958 or”;
 - (ii) omit “or Part 1 of the Civil Jurisdiction and Judgments Act 1982”.

The Matrimonial and Family Proceedings (Northern Ireland) Order 1989

64. In the Matrimonial and Family Proceedings (Northern Ireland) Order 1989(b), omit article 19(2).

The Companies (No. 2) (Northern Ireland) Order 1990

65. In the Companies (No. 2) (Northern Ireland) Order 1990(c), in article 104(3), omit the words from “or Regulation” to the end.

Social Security Administration Act 1992

66. In the Social Security Administration Act 1992(d) in section 108 (reduction of expenditure on income support: certain maintenance orders to be enforceable by the Secretary of State)—

- (a) after subsection (4)(a)(i), insert “or”;
- (b) omit subsection (4)(a)(iii) and the “or” preceding it.

(a) 1984 c 42.

(b) S.I. 1989/677 (N.I. 4), amended by S.I. 2001/3929, S.I. 2011/1484.

(c) S.I. 1990/1504 (N.I. 10). Relevant amendments were made by S.I. 2014/2947.

(d) 1992 c.5

Social Security Administration (Northern Ireland) Act 1992

67. In the Social Security Administration (Northern Ireland) Act 1992(a) in section 103 (reduction of expenditure on income support: certain maintenance orders to be enforceable by the Department)—

- (a) after subsection (4)(a)(i), insert “or”;
- (b) omit subsection (4)(a)(iii) and the “or” preceding it.

Civil Partnership Act 2004

68. In the Civil Partnership Act 2004(b), in Part 2 of Schedule 11 (circumstances in which court in Scotland may entertain application for financial provision after overseas proceedings), omit paragraph 2(4).

Defamation Act 2013

69.—(1) In the Defamation Act 2013(c), section 9 (action against a person not domiciled in the UK or a Member State etc) is amended as follows.

- (2) In the heading, omit “or a Member State etc”.
- (3) In subsection (1)—
 - (a) omit paragraph (b);
 - (b) omit paragraph (c) and the “or” preceding it.
- (4) For subsection (4) substitute—

“(4) Sections 41 and 42 of the Civil Jurisdiction and Judgments Act 1982 apply for the purpose of determining whether an individual, corporation or association is regarded as “domiciled in the United Kingdom” for the purposes of this section.”.
- (5) Omit subsection (5).

PART 3

Amendment of subordinate legislation

The High Court and County Courts Jurisdiction Order 1991

70. In the High Court and County Courts Jurisdiction Order 1991(d), omit article 6G.

The Civil Jurisdiction and Judgments Act 1982 (Interim Relief) Order 1997

71. In the Civil Jurisdiction and Judgments Act 1982 (Interim Relief) Order 1997(e), in article 2—

- (a) in paragraph (a)—
 - (i) omit the words from “a Brussels” to “Lugano Convention,”;
 - (ii) omit the words after “Hague Convention State”;
- (b) in paragraph (b), for “the scope of the Regulation as determined by Article 1 of the Regulation” substitute “scope of the 2005 Hague Convention as determined by Articles 1 and 2 of that Convention”.

(a) 1992 c.8

(b) 2004 c. 33.

(c) 2013 c. 26.

(d) S.I. 1991/724. Article 6G was inserted by S.I. 2014/2947.

(e) S.I. 1997/302. Relevant amendments were made by S.I. 2001.3929, S.I. 2009/3131 and S.I. 2015/1644.

The Civil Jurisdiction and Judgments Act 1982 (Provisional and Protective Measures) (Scotland) Order 1997

72.—(1) The Civil Jurisdiction and Judgments Act 1982 (Provisional and Protective Measures) (Scotland) Order 1997(a) is amended as follows.

- (2) In article 2—
 - (a) in paragraph (a), omit the words from “a Brussels” to “Convention or”;
 - (b) in paragraph (b), for the words from “the scope” to the end substitute “scope of the 2005 Hague Convention as determined by Articles 1 and 2 of that Convention.”.
- (3) In article 3, omit the words from “a Brussels” to “Convention or”.

The Civil Jurisdiction and Judgments Act 1982 (Gibraltar) Order 1997

73.—(1) The Civil Jurisdiction and Judgments Act 1982 (Gibraltar) Order 1997(b) is amended as follows.

- (2) In article 2(a), after “paragraph (b)” insert “as they had effect immediately before exit day”.
- (3) Renumber article 4 as paragraph (1) of that article, and—
 - (a) in the paragraph (1)(b) so formed, for “the reports mentioned in section 3(3)” substitute “the expert reports relating to the 1968 Convention referred to in section 50”; and
 - (b) after the paragraph (1) so formed, insert—

“(2) The requirement in paragraph (1)(a) applies only in relation to principles laid down, or decisions made, by the European Court before exit day.”.

The Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001

74. The Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001(c) is revoked.

The Civil Jurisdiction and Judgments Order 2001

75.—(1) The Civil Jurisdiction and Judgments Order 2001(d) is amended as follows.

- (2) In article 2 (interpretation), omit the definitions of—
 - (a) “the 2005 Agreement”;
 - (b) “the Regulation”;
 - (c) “the Regulation State”.
- (3) Omit article 3 (the Regulation).
- (4) Omit article 3A (the 2005 Agreement).
- (5) Omit Schedule 1 (the Regulation).

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

76.—(1) The Employment Tribunals (Enforcement of Orders in Other Jurisdictions) (Scotland) Regulations 2002(e) are amended as follows.

- (2) In regulation 2 (interpretation), omit the definitions of—

(a) S.I. 1997/2780 (S. 174).
(b) S.I. 1997/2602.
(c) S.I. 2001/3928.
(d) S.I. 2001/3929. Relevant amendments were made by S.I. 2007/1655 and S.I. 2014/2947.
(e) S.I. 2002/2972 (S. 12).

- (a) “Contracting State”;
 - (b) “Regulation State”.
- (3) Omit regulation 3 (recognition or enforcement of tribunal decisions in another Contracting State).
- (4) Omit regulation 4 (recognition or enforcement of tribunal decisions in another Regulation State).

The Armed Forces (Service of Process in Maintenance Proceedings) Regulations 2009

77. In regulation 2 (interpretation) of the Armed Forces (Service of Process in Maintenance Proceedings) Regulations 2009(a), in paragraph (1), in the definition of “maintenance order”, omit “or Part 1 of the Civil Jurisdiction and Judgments Act 1982 or Council Regulation (EEC) No 44/2001”.

The Armed Forces (Forfeitures and Deductions) Regulations 2009

78.—(1) The Armed Forces (Forfeitures and Deductions) Regulations 2009(b) are amended as follows.

- (2) In regulation 2 (interpretation), omit the definition of “the 2000 Council Regulation”.
- (3) In regulation 8 (deduction from pay – external maintenance order), in paragraph (10)(a), omit sub-paragraphs (iii) and (iv).
- (4) In regulation 9 (meaning of “maintenance order”), in paragraph (2), omit sub-paragraphs (a) and (b).

The Civil Jurisdiction and Judgments Regulations 2009

- 79.**—(1) The Civil Jurisdiction and Judgments Regulations 2009(c) are amended as follows.
- (2) Omit regulations 46 and 47 (provisions relating to authentic instruments and court settlements).

The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations 2012

80. In Schedule 2 to the International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations 2012(d)—

- (a) in paragraph 1 (application), omit sub-paragraphs (a) and (b); and
- (b) in paragraph 2 (interpretation), omit the definitions of “the Council Regulation” and “the Lugano Convention”.

The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012

81. In Schedule 2 to the International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012(e)—

- (a) in paragraph 1 (application), omit sub-paragraphs (a), (b), (c) and (d); and
- (b) in paragraph 2 (interpretation), omit the definitions of “the 1968 Brussels Convention”, “the 1988 Lugano Convention”, “the Council Regulation” and “the Lugano Convention”.

(a) S.I. 2009/1093.
(b) S.I. 2009/1109.
(c) S.I. 2009/3131.
(d) S.I. 2012/2814.
(e) S.R. 2012/413.

PART 4

Treaty rights and obligations

The 1968 Convention, the Lugano Conventions and the EC-Denmark Agreement

82.—(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which—

- (a) continue by virtue of section 4(1) of the European Union (Withdrawal) Act 2018; and
- (b) are derived from—
 - (i) the Brussels Conventions;
 - (ii) the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the member States of the European Communities and the Republic of Iceland, the Kingdom of Norway and the Swiss Confederation, signed by the member States on 16 September 1988;
 - (iii) the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, of 19 October 2005; or
 - (iv) the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark, signed on behalf of the Community on 30 October 2007,

cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) on exit day.

(2) In this regulation, “the Brussels Conventions” means—

- (i) the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocol annexed to that Convention), signed at Brussels on 27 September 1968;
- (ii) the Protocol on the interpretation of the 1968 Convention by the European Court, signed at Luxembourg on 3 June 1971;
- (iii) the Convention on the accession to the 1968 Convention and the 1971 Protocol of Denmark, the Republic of Ireland and the United Kingdom, signed at Luxembourg on 9 October 1968;
- (iv) the Convention on the accession of the Hellenic Republic to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention, signed at Luxembourg on 25 October 1982;
- (v) the Convention on the Accession of the Kingdom of Spain and the Portuguese Republic to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention and the 1982 Accession Convention, signed at Donostia, San Sebastián on 26 May 1989; and
- (vi) the Convention on the Accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention, the 1982 Accession Convention and the 1989 Accession Convention, signed at Brussels on 29 November 1996.

PART 5

Revocation of retained direct EU legislation

Council Decision of 28 May 2001 (2001/470/EC)

83. Council Decision of 28 May 2001 establishing a European Judicial Network in civil and commercial matters (2001/470/EC) is revoked.

Council Regulation (EC) No 44/2001

84. Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters is revoked.

Council Decision of 20 September 2005 (2005/790/EC)

85. Council Decision of 20 September 2005 on the signing, on behalf of the Community, of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (2005/790/EC) is revoked.

Council Decision of 27 April 2006 (2006/325/EC)

86. Council Decision of 27 April 2006 concerning the conclusion of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (2006/325/EC) is revoked.

Council Decision of 15 October 2007 (2007/712/EC)

87. Council Decision of 15 October 2007 on the signing, on behalf of the Community, of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (2007/712/EC) is revoked.

Council Decision of 27 November 2008 (2009/430/EC)

88. Council Decision of 27 November 2008 concerning the conclusion of the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (2009/430/EC) is revoked.

Regulation (EU) No 1215/2012

89. 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) is revoked.

Regulation (EU) No 542/2014

90. Regulation (EU) No 542/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EU) No 1215/2012 as regards the rules to be applied with respect to the Unified Patent Court and the Benelux Court of Justice is revoked.

Commission Delegated Regulation (EU) No 2015/281

91. Commission Delegated Regulation (EU) No 542/2014 of 26 November 2014 replacing Annexes I and II of Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters is revoked.

Part 6

Savings

Savings relating to jurisdiction, recognition and enforcement

92.—(1) Subject to paragraph (5) and to regulation 93, this regulation applies—

- (a) where one of the relevant instruments applies immediately before exit day to determine questions relating to the jurisdiction of a court in any part of the United Kingdom to hear proceedings of which that court was seised before exit day and which are not concluded before exit day;
- (b) in relation to recognition or enforcement by a court in any part of the United Kingdom of—
 - (i) a judgment or decision given in proceedings of which a court in a State bound by a relevant instrument was seised before exit day;
 - (ii) a court settlement concluded, or authentic instrument registered, before exit day in a State bound by a relevant instrument,

where the question of recognition or enforcement has not arisen for consideration by the first mentioned court before exit day, or having so arisen, that court has not concluded its consideration before that day.

(2) The relevant instruments referred to in paragraph (1) are—

- (a) the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial matters, signed at Brussels on 27 September 1968;
- (b) the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, between the member States of the European Communities and the Republic of Iceland, the Kingdom of Norway and the Swiss Confederation, signed by the member States on 16 September 1988;
- (c) the Agreement between the European Community and the Kingdom of Denmark on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, of 19 October 2005;
- (d) the 2007 Lugano Convention;
- (e) Regulation (EC) No 44/2001;
- (f) Regulation (EU) No 1215/2012.

(3) Notwithstanding the provision made by these Regulations, and subject to regulation 93, on and after exit day—

- (a) the relevant instruments, as they are incorporated or saved by sections 3 and 4 of the European Union (Withdrawal) Act 2018, continue to have effect in relation to questions of jurisdiction, or recognition or enforcement, mentioned in paragraph (1) as if those instruments had not been revoked by these Regulations and the United Kingdom remained a member State;
- (b) EU-derived domestic legislation relating to the relevant instruments, as it is saved by section 2 of the European Union (Withdrawal) Act 2018, continues to have effect in relation to questions of jurisdiction, or recognition or enforcement, mentioned in paragraph (1) as if the provision made by these Regulations in respect of that legislation had not been made and the United Kingdom remained a member State.

(4) In this regulation, a reference to “recognition” includes non-recognition if the context so requires.

(5) This regulation does not apply to a maintenance obligation or request to which the International Recovery of Maintenance (Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 2007) (EU Exit) Regulations 2018(a) apply.

Modifications of relevant instruments and EU-derived domestic legislation saved by regulation 92

93.—(1) In any case where regulation 92 applies, the relevant instruments and EU-derived domestic legislation saved by regulation 92 apply with the following modifications.

(2) Where before exit day a court in any part of the United Kingdom (the UK court) was seised of proceedings to which a relevant instrument applies, and a court in a State bound by that relevant instrument is subsequently seised of proceedings involving the same cause of action and between the same parties, the UK court may after exit day decline jurisdiction if, and only if, it considers that it would be unjust not to do so.

(3) If before exit day a court in any part of the United Kingdom was seised of proceedings against a defendant domiciled in a State bound by a relevant instrument, and it has not been possible to transmit the document instituting the proceedings in accordance with Regulation (EC) No. 1393/2007 by reason of the exit of the United Kingdom from the European Union, then, if the defendant does not appear before the court, the court may apply whichever of the following provisions of that relevant instrument listed below as appears just—

- (a) Article 26(2) or (4) of Regulation (EC) No 44/2001;
- (b) Article 26(2) or (4) of the 2007 Lugano Convention;
- (c) Article 28(2) or (4) of Regulation (EU) No 1215/2012.

(4) Where regulation 85(1)(b) applies, any obligation to provide or serve a certificate under any of the following provisions does not apply—

- (a) Articles 54, 57 and 58 of Regulation (EC) No 44/2001;
- (b) Articles 54, 57 and 58 of the 2007 Lugano Convention;
- (c) Articles 53 and 60 of Regulation (EU) No 1215/2012.

(5) In this regulation, “Regulation (EC) No. 1393/2007” means Regulation (EC) No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) and repealing Council Regulation (EC) No. 1348/2000.

(6) In this regulation, references to “defendant” include “defender”.

Savings for European Enforcement Orders and European Orders for Payment applied for, and European Small Claims Procedures commenced, before exit day

94.—(1) This regulation applies in relation to the provisions of Regulation (EU) No 1215/2012 (including those provisions as applied to references to Regulation (EC) No 44/2001 by Article 80 of the first mentioned Regulation) which are referred to by, or applied for the purposes of, the following instruments—

- (a) Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims;
- (b) Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure;
- (c) Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure.

(2) The provisions of Regulation (EU) No 1215/2012 mentioned in paragraph (1), as incorporated by section 3 of the European Union (Withdrawal) Act 2018, continue to have effect

(a) S.I. 2018/1125.

in relation to European Enforcement Orders and European orders for payment applied for, and European Small Claims procedures commenced, before exit day to which regulations 16, 17 and 18 of the European Enforcement Order, European Order for Payment and European Small Claims Procedures (Amendment etc.) (EU Exit) Regulations 2018(a) apply, as if the revocation of those provisions by these Regulations had not occurred and the UK remained a member State.

(3) Where a statement of opposition is lodged after exit day in accordance with regulation 17 of the European Enforcement Order, European Order for Payment and European Small Claims Procedure (Amendment etc) (EU Exit) Regulations 2018 in relation to an application for a European Order for Payment made before exit day, regulation 92(3) of these Regulations applies to the proceedings transferred in accordance with regulation 17 of the first mentioned Regulations as if the court to which they are transferred had been seised of those proceedings before exit day.

Interpretation of this Part

95.—(1) In this Part—

“relevant instrument” means an instrument mentioned in paragraph (2) of regulation 92;

“Regulation (EU) No 1215/2012” 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, including as applied by virtue of the Agreement between the European Community and the Kingdom of Denmark on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, of 19 October 2005;

“Regulation (EC) No 44/2001” means Council Regulation (EC) No 44/2001 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, including as applied by virtue of the Agreement between the European Community and the Kingdom of Denmark on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, of 19 October 2005;

“the 2007 Lugano Convention” means the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark, signed on behalf of the Community on 30 October 2007.

(2) In this Part, a court shall be deemed to be seised—

- (a) at the time when the document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or
- (b) if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service (being the first authority receiving the document to be served), provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.

(3) In paragraph (2), references to “applicant” include “claimant” or “pursuer”, and references to “respondent” include “defendant” or “defender”.

(4) Nothing in this Part shall be interpreted as saving any obligation upon the United Kingdom under any of the relevant instruments to notify the Depository or the European Commission, as the case may be, of any matter, or update any such notification after exit day.

Signed by authority of the Secretary of State for Justice.

Name
Parliamentary Under Secretary of State

(a) S.I. 2018/1311.

Date

Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8 of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies in retained EU law (in particular to address reciprocal arrangements which no longer exist and are no longer appropriate) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of civil judicial co-operation, including rules of jurisdiction and recognition and enforcement of judgments. Part 2 amends primary legislation, Part 3 amends subordinate legislation, Part 4 provides that certain treaty rights and obligations cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly) on exit day, Part 5 revokes retained direct EU legislation, and Part 6 makes saving provision.

An impact assessment will be made available in due course.

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