



# State Immunity Act 1978

## 1978 CHAPTER 33

### PART I

#### PROCEEDINGS IN UNITED KINGDOM BY OR AGAINST OTHER STATES

##### *Procedure*

#### **12 Service of process and judgments in default of appearance.**

- (1) Any writ or other document required to be served for instituting proceedings against a State shall be served by being transmitted through [<sup>F1</sup>the Foreign, Commonwealth and Development Office] to the Ministry of Foreign Affairs of the State and service shall be deemed to have been effected when the writ or document is received at the Ministry.
- (2) Any time for entering an appearance (whether prescribed by rules of court or otherwise) shall begin to run two months after the date on which the writ or document is received as aforesaid.
- (3) A State which appears in proceedings cannot thereafter object that subsection (1) above has not been complied with in the case of those proceedings.
- (4) No judgment in default of appearance shall be given against a State except on proof that subsection (1) above has been complied with and that the time for entering an appearance as extended by subsection (2) above has expired.
- (5) A copy of any judgment given against a State in default of appearance shall be transmitted through [<sup>F2</sup>the Foreign, Commonwealth and Development Office] to the Ministry of Foreign Affairs of that State and any time for applying to have the judgment set aside (whether prescribed by rules of court or otherwise) shall begin to run two months after the date on which the copy of the judgment is received at the Ministry.
- (6) Subsection (1) above does not prevent the service of a writ or other document in any manner to which the State has agreed and subsections (2) and (4) above do not apply where service is effected in any such manner.

*Status: Point in time view as at 23/02/2023.*

*Changes to legislation: There are currently no known outstanding effects for the State Immunity Act 1978, Cross Heading: Procedure. (See end of Document for details)*

- (7) This section shall not be construed as applying to proceedings against a State by way of counter-claim or to an action in rem; and subsection (1) above shall not be construed as affecting any rules of court whereby leave is required for the service of process outside the jurisdiction.

#### Textual Amendments

- F1** Words in s. 12(1) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 5**
- F2** Words in s. 12(5) substituted (30.9.2020) by [The Transfer of Functions \(Secretary of State for Foreign, Commonwealth and Development Affairs\) Order 2020 \(S.I. 2020/942\)](#), art. 1(2), **Sch. para. 5**

#### Modifications etc. (not altering text)

- C1** Ss. 12, 13, 14(3)(4) extended by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 31(4), 53, **Sch. 13 Pt. II para. 7**

### 13 Other procedural privileges.

- (1) No penalty by way of committal or fine shall be imposed in respect of any failure or refusal by or on behalf of a State to disclose or produce any document or other information for the purposes of proceedings to which it is a party.

- (2) Subject to subsections (3) and (4) below—

- (a) relief shall not be given against a State by way of injunction or order for specific performance or for the recovery of land or other property; and
- (b) the property of a State shall not be subject to any process for the enforcement of a judgment or arbitration award or, in an action in rem, for its arrest, detention or sale.

- [<sup>F3</sup>(2A) Subject to subsection (3) below—

- (a) where, on a complaint under section 111 of the Employment Rights Act 1996, an employment tribunal finds that a member of the staff of a diplomatic mission or a member of the consular staff of a consular post was unfairly dismissed, relief shall not be given against the State concerned by way of an order under section 113 of that Act; and
- (b) where, on a complaint under Article 145 of the Employment Rights (Northern Ireland) Order 1996, an industrial tribunal finds that a member of the staff of a diplomatic mission or a member of the consular staff of a consular post was unfairly dismissed, relief shall not be given against the State concerned by way of an order under Article 147 of that Order.]

- (3) [<sup>F4</sup>Subsections (2) and (2A) above do] not prevent the giving of any relief or the issue of any process with the written consent of the State concerned; and any such consent (which may be contained in a prior agreement) may be expressed so as to apply to a limited extent or generally; but a provision merely submitting to the jurisdiction of the courts is not to be regarded as a consent for the purposes of this subsection.

- (4) Subsection (2)(b) above does not prevent the issue of any process in respect of property which is for the time being in use or intended for use for commercial purposes; but, in a case not falling within section 10 above, this subsection applies to property of a State party to the European Convention on State Immunity only if—

*Status: Point in time view as at 23/02/2023.*

*Changes to legislation: There are currently no known outstanding effects for the State Immunity Act 1978, Cross Heading: Procedure. (See end of Document for details)*

- (a) the process is for enforcing a judgment which is final within the meaning of section 18(1)(b) below and the State has made a declaration under Article 24 of the Convention; or
  - (b) the process is for enforcing an arbitration award.
- (5) The head of a State’s diplomatic mission in the United Kingdom, or the person for the time being performing his functions, shall be deemed to have authority to give on behalf of the State any such consent as is mentioned in subsection (3) above and, for the purposes of subsection (4) above, his certificate to the effect that any property is not in use or intended for use by or on behalf of the State for commercial purposes shall be accepted as sufficient evidence of that fact unless the contrary is proved.
- (6) In the application of this section to Scotland—
- (a) the reference to “injunction” shall be construed as a reference to “interdict”;
  - (b) for paragraph (b) of subsection (2) above there shall be substituted the following paragraph—  
“(b) the property of a State shall not be subject to any diligence for enforcing a judgment or order of a court or a decree arbitral or, in an action in rem, to arrestment or sale.”; and
  - (c) any reference to “process” shall be construed as a reference to “diligence”, any reference to “the issue of any process” as a reference to “the doing of diligence” and the reference in subsection (4)(b) above to “an arbitration award” as a reference to “a decree arbitral”.

[<sup>F5</sup>(7) In subsection (2A) above—

“member of the consular staff of a consular post” is to be construed in accordance with Article 1(h) of the Vienna Convention on Consular Relations done at Vienna on 24 April 1963; and

“member of the staff of a diplomatic mission” is to be construed in accordance with Article 1(c) of the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961.]

#### Textual Amendments

- F3** S. 13(2A) inserted (23.2.2023) by [The State Immunity Act 1978 \(Remedial\) Order 2023 \(S.I. 2023/112\)](#), arts. 1(1), **4(2)** (with art. 1(3))
- F4** Words in s. 13(3) substituted (23.2.2023) by [The State Immunity Act 1978 \(Remedial\) Order 2023 \(S.I. 2023/112\)](#), arts. 1(1), **4(3)** (with art. 1(3))
- F5** S. 13(7) inserted (23.2.2023) by [The State Immunity Act 1978 \(Remedial\) Order 2023 \(S.I. 2023/112\)](#), arts. 1(1), **4(4)** (with art. 1(3))

#### Modifications etc. (not altering text)

- C2** Ss. 12, 13, 14(3)(4) extended by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 31(4), **53, Sch. 13 Pt. II para. 7**
- C3** S. 13(4) excluded (1.11.1997) by [S.I. 1997/2591](#), arts. 2, 3, **Sch.**

**Status:**

Point in time view as at 23/02/2023.

**Changes to legislation:**

There are currently no known outstanding effects for the State Immunity Act 1978, Cross  
Heading: Procedure.