



Civil Jurisdiction and Judgments Act 1982

1982 CHAPTER 27

PART I

IMPLEMENTATION OF THE CONVENTIONS

Main implementing provisions

1 Interpretation of references to the Conventions and Contracting States

(1) In this Act—

"the 1968 Convention" means 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 27th September 1968;

" the 1971 Protocol" means the Protocol on the interpretation of the 1968 Convention by the European Court, signed at Luxembourg on 3rd June 1971;

" the Accession Convention " means 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 9th October 1978;

"the Conventions" means the 1968 Convention, the 1971 Protocol and the Accession Convention.

(2) In this Act, unless the context otherwise requires—

(a) references to, or to any provision of, the 1968 Convention or the 1971 Protocol are references to that Convention, Protocol or provision as amended by the Accession Convention; and

(b) any reference to a numbered Article is a reference to the Article so numbered of the 1968 Convention, and any reference to a sub-division of a numbered Article shall be construed accordingly.

(3) In this Act " Contracting State " means—

(a) one of the original parties to the 1968 Convention (Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands); or

Status: This is the original version (as it was originally enacted).

(b) one of the parties acceding to that Convention under the Accession Convention (Denmark, the Republic of Ireland and the United Kingdom), being a state in respect of which the Accession Convention has entered into force in accordance with Article 39 of that Convention.

2 The Conventions to have the force of law

- (1) The Conventions shall have the force of law in the United Kingdom, and judicial notice shall be taken of them.
- (2) For convenience of reference there are set out in Schedules 1, 2 and 3 respectively the English texts of—
 - (a) the 1968 Convention as amended by Titles II and III of the Accession Convention;
 - (b) the 1971 Protocol as amended by Title IV of the Accession Convention ; and
 - (c) Titles V and VI of the Accession Convention (transitional and final provisions),being texts prepared from the authentic English texts referred to in Articles 37 and 41 of the Accession Convention.

3 Interpretation of the Conventions

- (1) Any question as to the meaning or effect of any provision of the Conventions shall, if not referred to the European Court in accordance with the 1971 Protocol, be determined in accordance with the principles laid down by and any relevant decision of the European Court.
- (2) Judicial notice shall be taken of any decision of, or expression of opinion by, the European Court on any such question.
- (3) Without prejudice to the generality of subsection (1), the following reports (which are reproduced in the Official Journal of the Communities), namely—
 - (a) the reports by Mr. P. Jenard on the 1968 Convention and the 1971 Protocol; and
 - (b) the report by Professor Peter Schlosser on the Accession Convention,may be considered in ascertaining the meaning or effect of any provision of the Conventions and shall be given such weight as is appropriate in the circumstances.

Supplementary provisions as to recognition and enforcement of judgments

4 Enforcement of judgments other than maintenance orders

- (1) A judgment, other than a maintenance order, which is the subject of an application under Article 31 for its enforcement in any part of the United Kingdom shall, to the extent that its enforcement is authorised by the appropriate court, be registered in the prescribed manner in that court.

In this subsection " the appropriate court " means the court to which the application is made in pursuance of Article 32 (that is to say, the High Court or the Court of Session).

- (2) Where a judgment is registered under this section, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.
- (3) A judgment registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgment had been originally given by the registering court and had (where relevant) been entered.
- (4) Subsection (3) is subject to Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under this section may be enforced.

5 Recognition and enforcement of maintenance orders

- (1) The function of transmitting to the appropriate court an application under Article 31 for the recognition or enforcement in the United Kingdom of a maintenance order shall be discharged—
 - (a) as respects England and Wales and Scotland, by the Secretary of State;
 - (b) as respects Northern Ireland, by the Lord Chancellor.

In this subsection "the appropriate court" means the magistrates' court or sheriff court having jurisdiction in the matter in accordance with the second paragraph of Article 32.

- (2) Such an application shall be determined in the first instance by the prescribed officer of that court.
- (3) Where on such an application the enforcement of the order is authorised to any extent, the order shall to that extent be registered in the prescribed manner in that court.
- (4) A maintenance order registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the order had been originally made by the registering court.
- (5) Subsection (4) is subject to Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under this section may be enforced.
- (6) A maintenance order which by virtue of this section is enforceable by a magistrates' court in England and Wales or Northern Ireland shall be enforceable in the same manner as an affiliation order made by that court.
- (7) The payer under a maintenance order registered under this section in a magistrates' court in England and Wales or Northern Ireland shall give notice of any change of address to the clerk of that court. A person who without reasonable excuse fails to comply with this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

6 Appeals under Article 37, second paragraph and Article 41

- (1) The single further appeal on a point of law referred to in Article 37, second paragraph and Article 41 in relation to the recognition or enforcement of a judgment other than a maintenance order lies—
 - (a) in England and Wales or Northern Ireland, to the Court of Appeal or to the House of Lords in accordance with Part II of the Administration of Justice Act 1969 (appeals direct from the High Court to the House of Lords);
 - (b) in Scotland, to the Inner House of the Court of Session.
- (2) Paragraph (a) of subsection (1) has effect notwithstanding section 15(2) of the Administration of Justice Act 1969 (exclusion of direct appeal to the House of Lords in cases where no appeal to that House lies from a decision of the Court of Appeal).
- (3) The single further appeal on a point of law referred to in Article 37, second paragraph and Article 41 in relation to the recognition or enforcement of a maintenance order lies—
 - (a) in England and Wales, to the High Court by way of case stated in accordance with section 111 of the Magistrates' Courts Act 1980;
 - (b) in Scotland, to the Inner House of the Court of Session ;
 - (c) in Northern Ireland, to the Court of Appeal.

7 Interest on registered judgments

- (1) Subject to subsection (4), where in connection with an application for registration of a judgment under section 4 or 5 the applicant shows—
 - (a) that the judgment provides for the payment of a sum of money; and
 - (b) that in accordance with the law of the Contracting State in which the judgment was given interest on that sum is recoverable under the judgment from a particular date or time,the rate of interest and the date or time from which it is so recoverable shall be registered with the judgment and, subject to any provision made under subsection (2), the debt resulting, apart from section 4(2), from the registration of the judgment shall carry interest in accordance with the registered particulars.
- (2) Provision may be made by rules of court as to the manner in which and the periods by reference to which any interest payable by virtue of subsection (1) is to be calculated and paid, including provision for such interest to cease to accrue as from a prescribed date.
- (3) Costs or expenses recoverable by virtue of section 4(2) shall carry interest as if they were the subject of an order for the payment of costs or expenses made by the registering court on the date of registration.
- (4) Interest on arrears of sums payable under a maintenance order registered under section 5 in a magistrates' court in England and Wales or Northern Ireland shall not be recoverable in that court, but without prejudice to the operation in relation to any such order of section 2A of the Maintenance Orders Act 1958 or section 11A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (which enable interest to be recovered if the order is re-registered for enforcement in the High Court).
- (5) Except as mentioned in subsection (4), debts under judgments registered under section 4 or 5 shall carry interest only as provided by this section.

8 Currency of payment under registered maintenance orders

- (1) Sums payable in the United Kingdom under a maintenance order by virtue of its registration under section 5, including any arrears so payable, shall be paid in the currency of the United Kingdom.
- (2) Where the order is expressed in any other currency, the amounts shall be converted on the basis of the exchange rate prevailing on the date of registration of the order.
- (3) For the purposes of this section, a written certificate purporting to be signed by an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be evidence, and in Scotland sufficient evidence, of the facts stated.

Other supplementary provisions

9 Provisions supplementary to Title VII of 1968 Convention

- (1) The provisions of Title VII of the 1968 Convention (relationship between that convention and other conventions to which Contracting States are or may become parties) shall have effect in relation to—
 - (a) any statutory provision, whenever passed or made, implementing any such other convention in the United Kingdom ; and
 - (b) any rule of law so far as it has the effect of so implementing any such other convention,as they have effect in relation to that other convention itself.
- (2) Her Majesty may by Order in Council declare a provision of a convention entered into by the United Kingdom to be a provision whereby the United Kingdom assumed an obligation of a kind provided for in Article 59 (which allows a Contracting State to agree with a third State to withhold recognition in certain cases from a judgment given by a court in another Contracting State which took jurisdiction on one of the grounds mentioned in the second paragraph of Article 3).

10 Allocation within U.K. of jurisdiction with respect to trusts and consumer contracts

- (1) The provisions of this section have effect for the purpose of allocating within the United Kingdom jurisdiction in certain proceedings in respect of which the 1968 Convention confers jurisdiction on the courts of the United Kingdom generally and to which section 16 does not apply.
- (2) Any proceedings which by virtue of Article 5(6) (trusts) are brought in the United Kingdom shall be brought in the courts of the part of the United Kingdom in which the trust is domiciled.
- (3) Any proceedings which by virtue of the first paragraph of Article 14 (consumer contracts) are brought in the United Kingdom by a consumer on the ground that he is himself domiciled there shall be brought in the courts of the part of the United Kingdom in which he is domiciled.

11 Proof and admissibility of certain judgments and related documents

- (1) For the purposes of the 1968 Convention—
 - (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a Contracting State other than the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown ; and
 - (b) the original or a copy of any such document as is mentioned in Article 46(2) or 47 (supporting documents to be produced by a party seeking recognition or enforcement of a judgment) shall be evidence, and in Scotland sufficient evidence, of any matter to which it relates.
- (2) A document purporting to be a copy of a judgment given by any such court as is mentioned in subsection (1)(a) is duly authenticated for the purposes of this section if it purports—
 - (a) to bear the seal of that court; or
 - (b) to be certified by any person in his capacity as a judge or officer of that court to be a true copy of a judgment given by that court.
- (3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible apart from this section.

12 Provision for issue of copies of, and certificates in connection with, U.K. judgments

Rules of court may make provision for enabling any interested party wishing to secure under the 1968 Convention the recognition or enforcement in another Contracting State of a judgment given by a court in the United Kingdom to obtain, subject to any conditions specified in the rules—

- (a) a copy of the judgment; and
- (b) a certificate giving particulars relating to the judgment and the proceedings in which it was given.

13 Modifications to cover authentic instruments and court settlements

- (1) Her Majesty may by Order in Council provide that—
 - (a) any provision of this Act relating to the recognition or enforcement in the United Kingdom or elsewhere of judgments to which the 1968 Convention applies ; and
 - (b) any other statutory provision, whenever passed or made, so relating, shall apply, with such modifications as may be specified in the Order, in relation to documents and settlements within Title IV of the 1968 Convention (authentic instruments and court settlements enforceable in the same manner as judgments) as if they were judgments to which that Convention applies.
- (2) An Order in Council under this section may make different provision in relation to different descriptions of documents and settlements.
- (3) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

14 Modifications consequential on revision of the Conventions

- (1) If at any time it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom have agreed to a revision of any of the Conventions, including in particular any revision connected with the accession to the 1968 Convention of one or more further states, Her Majesty may by Order in Council make such modifications of this Act or any other statutory provision, whenever passed or made, as Her Majesty considers appropriate in consequence of the revision.
- (2) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.
- (3) In this section "revision" means an omission from, addition to or alteration of any of the Conventions and includes replacement of any of the Conventions to any extent by another convention, protocol or other description of international agreement.

15 Interpretation of Part I and consequential Amendments

- (1) In this Part, unless the context otherwise requires—
 - "judgment" has the meaning given by Article 25 ;
 - "maintenance order" means a maintenance judgment within the meaning of the 1968 Convention;
 - "payer", in relation to a maintenance order, means the person liable to make the payments for which the order provides;
 - "prescribed" means prescribed by rules of court.
- (2) References in this Part to a judgment registered under section 4 or 5 include, to the extent of its registration, references to a judgment so registered to a limited extent only.
- (3) Anything authorised or required by the 1968 Convention or this Part to be done by, to or before a particular magistrates' court may be done by, to or before any magistrates' court acting for the same petty sessions area (or, in Northern Ireland, petty sessions district) as that court.
- (4) The enactments specified in Part I of Schedule 12 shall have effect with the amendments specified there, being amendments consequential on this Part.