



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 ^{M1}Arbitration Act 1950 or section 21(1) of the ^{M2}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.

Marginal Citations

M1 1950 c. 27.

M2 1937 c. 8 (N.I.).

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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.

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- (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;
 - (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 ^{M3}Administration of Justice (Scotland) Act 1972 [^{F1}as amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985] as if the proceedings in question had been brought, or were likely to be brought, in that court.

Textual Amendments

F1 Words inserted (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 39:1\), s. 59, Sch. 2 para. 24](#)

Marginal Citations

M3 1972 c. 59.

29 Service of county court process outside Northern Ireland.

The County Court Rules Committee established by Article 46 of the ^{M4}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.”

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Marginal Citations

M4 [S.I. 1980/397 \(N.I. 3\)](#).

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.

Status:

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