



# Civil Jurisdiction and Judgments Act 1982

## 1982 CHAPTER 27

### PART IV

#### MISCELLANEOUS PROVISIONS

*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—

“10 (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;

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*Status: This is the original version (as it was originally enacted).*

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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.”.