
STATUTORY INSTRUMENTS

2001 No. 3928

JUDGMENTS

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

Made - - - - *11th December 2001*
Laid before Parliament *3rd January 2002*
Coming into force - - *1st March 2002*

At the Court at Buckingham Palace, the 11th day of December 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas a Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (1) was done on 22nd December 2000:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 2(2) of the European Communities Act 1972(2), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1.—(1) This Order may be cited as the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001 and shall come into force on 1st March 2002.

(2) In this Order—

“the Act” means the Civil Jurisdiction and Judgments Act 1982(3);

“the Regulation” means Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters;

“Regulation State” in any provision, in the application of that provision in relation to the Regulation, has the same meaning as “Member State” in the Regulation, that is all Member States except Denmark;

“the 2001 Order” means the Civil Jurisdiction and Judgments Order 2001(4).

(1) Council Regulation (EC) No. 44/2001.

(2) 1972 c. 68.

(3) 1982 c. 27, as amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12) and by S.I. 1989/1346, S.I. 1990/2591, S.I. 1993/603 and S.I. 2000/1824.

(4) S.I. 2001/3929.

(3) In this Order—

- (a) references to authentic instruments and court settlements are references to those instruments and settlements referred to in Chapter IV of the Regulation; and
- (b) references to judgments and maintenance orders are references to judgments and maintenance orders to which the Regulation applies.

2.—(1) Subject to the modifications specified in paragraphs (2) and (3), paragraphs 1 to 6 of Schedule 1 to the 2001 Order shall apply, as appropriate, to authentic instruments and court settlements which—

- (a) do not concern maintenance as if they were judgments,
- (b) concern maintenance as if they were maintenance orders.

(2) In the application of paragraph 2(2) of Schedule 1 to the 2001 Order to authentic instruments and court settlements, for the words “as if the judgment had been originally given” there shall be substituted “as if it was a judgment which had been originally given”.

(3) In the application of paragraph 3(3) of Schedule 1 to the 2001 Order to authentic instruments and court settlements, for the words “as if the order had been originally made” there shall be substituted the words “as if it was an order which had been originally made”.

(4) Paragraph 8 of Schedule 1 to the 2001 Order shall apply to authentic instruments as if they were judgments and in its application—

- (a) for sub-paragraph (1)(b) there shall be substituted the following—
 - “(b) a certificate obtained in accordance with Article 57 and Annex VI shall be evidence, and in Scotland sufficient evidence, that the authentic instrument is enforceable in the Regulation State of origin.”; and

- (b) for sub-paragraph (2) there shall be substituted the following—
 - “(2) A document purporting to be a copy of an authentic instrument drawn up or registered, and enforceable, in a Regulation State other than the United Kingdom is duly authenticated for the purposes of this paragraph if it purports to be certified to be a true copy of such an instrument by a person duly authorised in that Regulation State to do so.”.

(5) Paragraph 8 of Schedule 1 to the 2001 Order shall apply to court settlements as if they were judgments and in its application for “Article 54” there shall be substituted “Article 58”.

3. The disapplication of section 18 of the Act (enforcement of United Kingdom judgments in other parts of the United Kingdom) by section 18(7) will extend to authentic instruments and court settlements enforceable in a Regulation State outside the United Kingdom which will fall to be treated for the purposes of their enforcement as judgments of a court of law in the United Kingdom by virtue of registration under the Regulation.

4. Section 48(5) of the Act (matters for which rules of court may provide) will apply to authentic instruments and court settlements as if they were judgments or maintenance orders, as appropriate, to which the Regulation applies.

A.K. Galloway
Clerk of the Privy Council

(5) Section 48 was amended by paragraph 23 of Schedule 2 to the Civil Jurisdiction and Judgments Act 1991 (c. 12) and paragraph 17 of Schedule 2 of the Civil Jurisdiction and Judgments Order 2001 (S.I. 2001/3929).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is needed in consequence of the coming into force on 1st March 2002 of Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“the Regulation”). The Regulation applies to all Member States except Denmark.

The Civil Jurisdiction and Judgments Order 2001, which, for the most part, will also come into force on 1st March 2002, makes the main legislative changes needed in respect of the Regulation. This Order in Council applies specified provisions of the Civil Jurisdiction and Judgments Order 2001 to authentic instruments and court settlements from other Member States bound by the Regulation, which by virtue of Chapter IV of the Regulation are enforceable in the same manner as judgments.

Authentic instruments usually take the form of agreements containing obligations, which are drawn up by the parties before a notary public. They exist in most European legal systems, as do court settlements, which are settlements of legal proceedings agreed by the parties and approved by the court, and which are enforceable without having to be drawn up as judgments.

Paragraphs 1 to 6 and 8 of the Civil Jurisdiction and Judgments Order 2001 are applied, with modifications, and section 48 of the Civil Jurisdiction and Judgments Act 1982 is applied, to such documents and settlements as if they were judgments to which the Regulation applies.