
STATUTORY INSTRUMENTS

2009 No. 3131

JUDGMENTS

The Civil Jurisdiction and Judgments Regulations 2009

Made - - - - *29th November 2009*
Laid before Parliament *1st December 2009*
Coming into force - - *1st January 2010*

The Secretary of State has been designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to private international law⁽³⁾.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972.

The Secretary of State makes these Regulations under the powers conferred by section 2(2) of the European Communities Act 1972.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Jurisdiction and Judgments Regulations 2009, and come into force on 1st January 2010.

(2) Regulations 2 to 25 and 46 to 48 extend to England and Wales, Scotland and Northern Ireland.

(3) Regulation 26 extends to England and Wales and Northern Ireland only.

(4) Regulations 28 to 44 extend to England and Wales only.

(5) Regulations 27 and 45 extend to Scotland only.

Amendments to the Civil Jurisdiction and Judgments Act 1982

2. The Civil Jurisdiction and Judgments Act 1982⁽⁴⁾ is amended in accordance with regulations 3 to 25.

3.—(1) Section 1 is amended as follows.

(1) In so far as these regulations deal with matters that are within the devolved competence of Scottish Ministers, the power of the Secretary of State to make regulations in relation to those matters in or as regards Scotland is preserved by section 57(1) of the Scotland Act 1998 (c.46).

(2) 1972 c.68.

(3) The European Communities (Designation)(No. 2) Order 2008 (S.I. 2008/1792).

(4) 1982 c.27. There are relevant amendments in S.I. 1989/1346, S.I. 1990/2591, S.I. 2000/1824, S.I. 2001/3929 and S.I. 2007/1655, and in the Civil Jurisdiction and Judgments Act 1991.

- (2) In subsection (1) substitute for the definition of “the Lugano Convention”—
 ““the Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark signed on behalf of the European Community on 30th October 2007(5).”.
- (3) Omit subsection (2)(aa).
- (4) In subsection (3)—
- (a) in the definition of “Contracting State”, for “Lugano Contracting State” substitute “State bound by the Lugano Convention”;
 - (b) for the definition of “Lugano Contracting State” substitute ““State bound by the Lugano Convention” in any provision, in the application of that provision in relation to the Lugano Convention has the same meaning as in Article 1(3) of that Convention;”.
- (5) In subsection (4)(a) for “Article 54B” substitute “Article 64”.
4. Sections 3A and 3B are repealed.
- 5.—(1) In section 4(1) omit “or of the Lugano Convention”.
- (2) After section 4 insert—

“Enforcement of judgments, other than maintenance orders, under the Lugano Convention

4A.—(1) Where a judgment, other than a maintenance order, is registered under the Lugano Convention, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.

(2) A judgment other than a maintenance order registered under the Lugano Convention 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.

(3) Subsection (2) is subject to Article 47(3) of the Lugano Convention (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 (interest on registered judgments) and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under the Lugano Convention may be enforced.”.

- 6.—(1) In section 5(1) omit “or of the Lugano Convention”.
- (2) After section 5 insert—

“Recognition and enforcement of maintenance orders under the Lugano Convention

5A.—(1) The Secretary of State’s function (under Article 39 and Annex II of the Lugano Convention) of transmitting to the appropriate court an application for the recognition or enforcement in the United Kingdom of a maintenance order (made under Article 38 of the Lugano Convention) shall be discharged—

- (a) as respects England and Wales and Northern Ireland, by the Lord Chancellor; and
- (b) as respects Scotland, by the Scottish Ministers.

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 39.

(2) Such an application shall be determined in the first instance by the prescribed officer of the court having jurisdiction in the matter.

(3) A maintenance order registered under the Lugano Convention 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 made by the registering court.

(4) Subsection (3) is subject to Article 47 of the Lugano Convention (restriction on enforcement where appeal pending or time for appeal unexpired), to subsection (6) and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under the Lugano Convention may be enforced.

(5) A maintenance order which by virtue of the Lugano Convention is enforceable by a magistrates’ court in England and Wales shall, subject to the modifications of sections 76 and 93 of the Magistrates’ Courts Act 1980 specified in sections 5(5B) and 5(5C) of the Act, be enforceable in the same manner as a magistrates’ court maintenance order made by that court.

In this subsection “magistrates’ court maintenance order” has the same meaning as in section 150(1) of the Magistrates’ Courts Act 1980.

(6) A maintenance order which by virtue of the Lugano Convention is enforceable by a magistrates’ court in Northern Ireland shall, subject to the modifications of Article 98 of the Magistrates’ Courts (Northern Ireland) Order 1981 specified in section 5(6A) of this Act, be enforceable as an order made by that court to which that Article applies.

(7) The payer under a maintenance order registered under the Lugano Convention in a magistrates’ court in England and Wales or Northern Ireland shall give notice of any change of address to the proper officer of that court.

(8) A person who without reasonable excuse fails to comply with subsection (7) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(9) In subsection (7) “proper officer” means—

- (a) in relation to a magistrates’ court in England and Wales, the designated officer; and
- (b) in relation to a magistrates’ court in Northern Ireland, the clerk of the court.”.

7.—(1) In section 6(1) omit “and the Lugano Convention”.

(2) In section 6(3) for “each of those Conventions” substitute “the 1968 Convention”.

(3) After section 6 insert—

“Appeals under Article 44 and Annex IV of the Lugano Convention

6A.—(1) The single further appeal on a point of law referred to in Article 44 and Annex IV of the Lugano Convention 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 Supreme Court in accordance with Part II of the Administration of Justice Act 1969 (appeals direct from the High Court to the Supreme Court);
- (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 Supreme Court 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 44 and Annex IV of the Lugano Convention in relation to the recognition or enforcement of a maintenance order lies—

- (a) in England and Wales, to a county court in accordance with section 111A 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.”.

8. In section 7(1) and (5), for “4 or 5” substitute “4, 4A, 5 or 5A”.

9. In section 8(1) after “section 5” insert “or 5A”.

10.—(1) In section 9(1) for “Article 54B” substitute “Article 64”.

(2) Omit section 9(2).

11. In section 10(3) after “Article 14” insert “of the 1968 Convention or Article 16(1) of the Lugano Convention”.

12.—(1) In section 11(1) omit “and the Lugano Convention”.

(2) After section 11 insert—

“Proof and admissibility of certain judgments and related documents for the purposes of the Lugano Convention

11A.—(1) For the purposes of the Lugano Convention—

- (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a State bound by the Lugano Convention other than the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown; and
- (b) a certificate obtained in accordance with Article 54 and Annex V shall be evidence, and in Scotland sufficient evidence, that the judgment is enforceable in the State of origin which is bound by the Lugano Convention.

(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.”.

13. In section 13(1) omit “or the Lugano Convention” and “or, as the case may be, Title IV of the Lugano Convention”.

14. In section 14 (1) and (3) omit “the Lugano Convention or”.

15.—(1) In section 15(1) after “Article 25” insert “of the 1968 Convention or, as the case may be, Article 32 of the Lugano Convention”.

(2) In section 15(2) for the words “section 4 or 5” substitute “sections 4, 4A, 5 or 5A”.

16. In section 24(1)(c) and (2)(c) after “the Regulation” insert “or the Lugano Convention”.

17.—(1) Section 25 is amended as follows.

(2) In subsections (1)(a) and (3)(a) for “or Lugano Contracting State” substitute “Contracting State or a State bound by the Lugano Convention”.

(3) In subsection (1) for paragraph (b) substitute—

“(b) they are or will be proceedings whose subject-matter is either within the scope of the Regulation as determined by Article 1 of the Regulation or within the scope of the Lugano Convention as determined by Article 1 of the Lugano Convention (whether or not the Regulation or the Lugano Convention has effect in relation to the proceedings).”.

(4) In subsection (3) for paragraph (b) substitute—

“(b) proceedings whose subject-matter is not within the scope either of the Regulation as determined by Article 1 of the Regulation or the Lugano Convention as determined by Article 1 of the Lugano Convention.”.

18.—(1) In section 41(1) omit “the Lugano Convention”.

(2) After section 41 insert—

“Domicile of individuals for the purposes of the Lugano Convention

41A.—(1) Subject to Article 59 of the Lugano Convention (which contains provisions for determining whether a party is domiciled in a State bound by the Lugano Convention), the following provisions of this section determine, for the purposes of the Lugano Convention, whether an individual is domiciled in the United Kingdom or in a particular part of, or place in, the United Kingdom or in a state other than a State bound by the Lugano Convention.

(2) An individual is domiciled in the United Kingdom if and only if—

- (a) he is resident in the United Kingdom; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with the United Kingdom.

(3) Subject to subsection (5), an individual is domiciled in a particular part of the United Kingdom if and only if—

- (a) he is resident in that part; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that part.

(4) An individual is domiciled in a particular place in the United Kingdom if and only if he—

- (a) is domiciled in the part of the United Kingdom in which that place is situated; and
- (b) is resident in that place.

(5) An individual who is domiciled in the United Kingdom but in whose case the requirements of subsection (3)(b) are not satisfied in relation to any particular part of the United Kingdom shall be treated as domiciled in the part of the United Kingdom in which he is resident.

(6) In the case of an individual who—

- (a) is resident in the United Kingdom, or in a particular part of the United Kingdom; and
- (b) has been so resident for the last three months or more,

the requirements of subsection (2)(b) or, as the case may be, subsection (3)(b) shall be presumed to be fulfilled unless the contrary is proved.

(7) An individual is domiciled in a state other than a State bound by the Lugano Convention if and only if—

- (a) he is resident in that state; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that state.”.

19. In section 42(2)(a) omit “or, as the case may be, the Lugano Convention”.

20.—(1) In section 43(1)(a) omit “or of the Lugano Convention”.

(2) After section 43 insert—

“Seat of companies or other legal persons, or of associations, for the purposes of Article 22(2) of the Lugano Convention

43A.—(1) The following provisions of this section determine where a company, or other legal person or an association of natural or legal persons, has its seat for the purposes of Article 22(2) of the Lugano Convention (which confers exclusive jurisdiction over proceedings relating to the validity of the constitution, the nullity or the dissolution of such bodies, or to the validity of the decisions of their organs).

(2) A company, legal person or association has its seat in the United Kingdom if and only if—

- (a) it was incorporated or formed under the law of a part of the United Kingdom; or
- (b) its central management and control is exercised in the United Kingdom.

(3) Subject to subsection (4), a company, legal person or association has its seat in a State bound by the Lugano Convention other than the United Kingdom if and only if—

- (a) it was incorporated or formed under the law of that state; or
- (b) its central management and control is exercised in that state.

(4) A company, legal person or association shall not be regarded as having its seat in a State bound by the Lugano Convention other than the United Kingdom if—

- (a) it has its seat in the United Kingdom by virtue of subsection (2)(a); or
- (b) it is shown that the courts of that other state would not regard it for the purposes of Article 22(2) as having its seat there.”.

21.—(1) Section 44 is amended as follows.

(2) In subsection (1)—

- (a) in paragraph (a) omit “or section 3 of Title II of the Lugano Convention”; and
- (b) in paragraph (b) for “Title II of either of those Conventions” substitute “Title II of the 1968 Convention”.

(3) In subsection (2) omit “or, as the case may be, of the Lugano Convention”.

22. After section 44 insert—

“Persons deemed to be domiciled in the United Kingdom for certain purposes of the Lugano Convention

44A.—(1) This section applies to—

- (a) proceedings within Section 3 of Title II of the Lugano Convention (insurance contracts);
- (b) proceedings within Section 4 of Title II of the Lugano Convention (consumer contracts); and
- (c) proceedings within Section 5 of Title II of the Lugano Convention (employment contracts).

(2) A person who, for the purposes of proceedings to which this section applies arising out of the operations of a branch, agency or other establishment in the United Kingdom, is deemed for the purposes of the Lugano Convention to be domiciled in the United Kingdom by virtue of —

- (a) Article 9(2) (insurers); or
- (b) Article 15(2) (suppliers of goods, services or credit to consumers); or
- (c) Article 18(2) (employers),

shall, for the purposes of those proceedings, be treated as so domiciled and as domiciled in the part of the United Kingdom in which the branch, agency or establishment in question is situated.”.

23.—(1) Section 46 is amended as follows.

- (2) In subsection (2)(a) for “and the Lugano Convention in each of which” substitute “in which”.
- (3) In subsection (4) omit “the Lugano Convention”.

24. In section 50—

- (a) omit the definition of “Lugano Contracting State”; and
- (b) after the definition of rules of court insert—

““State bound by the Lugano Convention” has the meaning given by section 1(3);”.

25. Omit Schedule 3C.

Amendment to the Civil Jurisdiction and Judgments Act 1982 (Interim Relief) Order 1997

26. In Article 2(a) of the Civil Jurisdiction and Judgments Act 1982 (Interim Relief) Order 1997(6) for “or Lugano Contracting State or” substitute “Contracting State, a State bound by the Lugano Convention or a”.

Amendment to the Civil Jurisdiction and Judgments Act 1982 (Provisional and Protective Measures) (Scotland) Order 1997

27. In article 2(a) (interpretation) and article 3 (Court of Session power) of the Civil Jurisdiction and Judgments Act 1982 (Provisional and Protective Measures) (Scotland) Order 1997(7), for “Lugano Contracting State” substitute “State bound by the Lugano Convention”.

Amendments to the Civil Procedure Rules 1998

28. The Civil Procedure Rules 1998 (8) are amended in accordance with regulations 29 to 44.

29. In rule 6.31 after the definition of “domicile” insert—

(6) [S.I. 1997/302](#).
(7) [S.I. 1997/2780](#).
(8) [S.I. 1998/3132](#).

“(j) “the Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark and signed by the European Community on 30th October 2007.”.

30. In rule 6.33 for subsection (1) substitute—

“(1) The claimant may serve the claim form on the defendant out of the United Kingdom where each claim against the defendant to be served and included in the claim form is a claim which the court has power to determine under the 1982 Act or the Lugano Convention and—

- (a) no proceedings between the parties concerning the same claim are pending in the courts of any other part of the United Kingdom or any other Convention territory; and
- (b) (i) the defendant is domiciled in the United Kingdom or in any Convention territory;
- (ii) the proceedings are within article 16 of Schedule 1 to the 1982 Act or article 22 of the Lugano Convention; or
- (iii) the defendant is a party to an agreement conferring jurisdiction, within article 17 of Schedule 1 to the 1982 Act or article 23 of the Lugano Convention.”.

31. In rule 6.33(3) after “the 1982 Act or” insert “the Lugano Convention or”.

32. In rule 12.11(4)(a) after “Judgments Act 1982 or” insert “the Lugano Convention or”.

33. In rule 12.11(6) after the definition of “the Judgments Regulation” insert—

“(f) “the Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark and signed by the European Community on 30th October 2007.”.

34. In rule 25.13(2)(a)(ii) for “Lugano Contracting State” substitute “State bound by the Lugano Convention”.

35. In rule 74.1(5) after the definition of “the EEO Regulation” insert—

“(f) “the Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark and signed by the European Community on 30th October 2007.”.

36. In rule 74.2(2)(a) after “the 1982 Act” insert “or the Lugano Convention”.

37. In rule 74.3(1)(d) after “the Judgments Regulation” insert—

“; and

- (e) the Lugano Convention.”.

38. For rule 74.4(6) substitute—

“(6) An application for registration under the Judgments Regulation or the Lugano Convention must, in addition to the evidence required by that Regulation or that Convention, be supported by the evidence required by paragraphs (1)(b) and (2)(e) of this rule.”.

39. In rule 74.5(2) after “the 1982 Act or” insert “,the Lugano Convention,”.
40. In rule 74.6(3)(c)(ii) for “ or under” substitute “,the Lugano Convention, or”.
41. In rule 74.8(1) after “under the 1982 Act or the” insert “Lugano Convention or the”.
42. For paragraphs (1) and (2) of rule 74.10 substitute—
- “(1) Registration of a judgment serves as a decision that the judgment is recognised for the purposes of the 1982 Act, the Lugano Convention and the Judgments Regulation.
- (2) An application for recognition of a judgment is governed by the same rules as an application for registration of a judgment under the 1982 Act, the Lugano Convention or the Judgments Regulation, except that rule 74.4(5)(a) and (c) does not apply.”.
43. For rule 74.11 substitute—
- “**74.11.** The rules governing the registration of judgments under the 1982 Act, the Lugano Convention or the Judgments Regulation apply as appropriate and with any necessary modifications for the enforcement of—
- (a) authentic instruments which are subject to—
- (i) article 50 of Schedule 3C to the 1982 Act;
- (ii) article 57 of the Lugano Convention; and
- (iii) article 57 of the Judgments Regulation; and
- (b) court settlements which are subject to—
- (i) article 51 of Schedule 1 to the 1982 Act;
- (ii) article 58 of the Lugano Convention; and
- (iii) article 58 of the Judgments Regulation.”.
44. In rule 74.12(1)(d) after “the Judgments Regulation” insert “or under article 54 of the Lugano Convention”.

Amendment to the Employment Tribunals (Enforcement of Orders in Other Jurisdictions) (Scotland) Regulations 2002

45. In the Employment Tribunals (Enforcement of Orders in Other Jurisdictions)(Scotland) Regulations 2002(9)—
- (a) for article 3(5) substitute—
- “(5) Subject to paragraph (4), upon receiving an application which satisfies the requirements of this regulation, the Secretary shall issue to the person applying a certificate in the form of Annex V to the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark signed on behalf of the European Community on 30th October 2007”; and
- (b) omit Schedule 1.

(9) S.S.I. 2002/2972 to which there is an amendment not relevant to these Regulations.

Provisions relating to Authentic Instruments and Court Settlements

46. The Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993⁽¹⁰⁾ does not apply in relation to the Lugano Convention, as defined in section 1(3) of the Civil Jurisdiction and Judgments Act 1982.

47.—(1) —In this regulation “the Act” means the Civil Jurisdiction and Judgments Act 1982.

(2) Subject to the modifications specified in paragraphs (3) and (4), sections 4A, 5A, 6A, 7 and 8 of the Act apply, as appropriate—

- (a) to authentic instruments and court settlements which do not concern maintenance as if they were judgments; and
- (b) to authentic instruments and court settlements which do concern maintenance as if they were maintenance orders.

(3) In the application of section 4A(2) of the Act to authentic instruments and court settlements, for “as if the judgment had been originally given” substitute “as if it were a judgment which had been originally given”.

(4) In the application of section 5A(3) of the Act to authentic instruments and court settlements, for “as if the order had been made” substitute “as if it were an order which had been made”.

(5) Section 11A of the Act applies to authentic instruments as if they were judgments and in its application—

- (a) in subsection (1) for paragraph (b) substitute—
 - “(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 Contracting State of origin.”; and

(b) for subsection (2) substitute—

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

(6) Section 11A of the Act applies to court settlements as if they were judgments and in its application for “Article 54” substitute “Article 58”.

(7) The disapplication of section 18 of the Act (enforcement of United Kingdom judgments in other parts of the United Kingdom) by section 18(7) extends to authentic instruments and court settlements enforceable in a Contracting State outside the United Kingdom which 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 Lugano Convention.

(8) Section 48 of the Act (matters for which rules of court may provide) applies to authentic instruments and court settlements as if they were judgments or maintenance orders, as appropriate, to which the Lugano Convention applies.

Savings provision

48.—(1) Notwithstanding the amendments made by these Regulations, the relevant instruments continue to have effect as if the amendments had not been made, for the purposes of proceedings, judgments and authentic instruments to which the 1988 Convention continues to apply pursuant to article 63 of the 2007 Lugano Convention (transitional provision).

⁽¹⁰⁾ S.I. 1993/604.

(2) In this regulation—

- (a) “the 1988 Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters done at Lugano on 16th September 1988;
- (b) “the 2007 Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark signed on behalf of the European Community on 30th October 2007;
- (c) “the relevant instruments” means—
 - (i) the Civil Jurisdiction and Judgments Act 1982;
 - (ii) the Civil Jurisdiction and Judgments Act 1982 (Interim Relief) Order 1997;
 - (iii) the Civil Jurisdiction and Judgments Act (Provisional Measures) (Scotland) (Order) 1979;
 - (iv) the Civil Procedure Rules 1998;
 - (v) the Employment Tribunals (Enforcement of Orders in Other Jurisdictions) (Scotland) Regulations 2002; and
 - (vi) the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993.

Signed by authority of the Secretary of State

29th November 2009

Bach
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of these Regulations)

The Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters was agreed by the European Community, the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark on 30th October 2007. It replaces the 1988 Convention on the same subject matter. The provisions of this new Convention are generally parallel in nature to those in Council Regulation (EC) No. 44/2001; this latter instrument operates within the European Community. The new Convention was ratified by the Council of Ministers on 18th May 2009 and enters into force for the European Community and Norway on 1st January 2010. On that date it will not enter into force in relation to Switzerland and Iceland because those countries will not, as at that date, have ratified it. In relation to those countries the 1988 convention will continue to apply until such time as those ratifications take place.

These Regulations amend various legislation, in particular the Civil Jurisdiction and Judgments Act 1982, the Civil Jurisdiction and Judgments Act 1982 (Interim Relief) Order 1997, the Civil Procedure Rules 1998, the Civil Jurisdiction and Judgments Act 1982 (Provisional and Protective Measures)(Scotland) Order 1997 and the Employment Tribunals (Enforcement of Judgments in Other Jurisdictions)(Scotland) Regulations 2002. These amendments make changes consequential upon the entry into force of the new Convention. The amendments to the 1982 Act generally mirror the provisions made by the Civil Jurisdiction and Judgments Order 2001 on the commencement of Council Regulation (EC) No. 44/2001. The Regulations also make provision in relation to authentic instruments and court settlements. These generally mirror the provisions made by the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 2001 on the commencement of Council Regulation (EC) No. 44/2001.

These Regulations shall come into force on 1st January 2010.