

EXPLANATORY MEMORANDUM TO
THE CIVIL JURISDICTION AND JUDGMENTS (AMENDMENT) REGULATIONS
2014

2014 No. 2947

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument makes provision to facilitate the application of Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (“the recast Judgments Regulation”).

2.2 The recast Judgments Regulation deals with cross-border jurisdiction, recognition and enforcement of judgments in civil and commercial matters, and the provision made by this instrument involves amendments across a number of statutes and statutory instruments to ensure that their provisions are consistent with the Regulation.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 There are no matters of special interest to the Committee.

4. Legislative Context

4.1 These amendments made by this instrument are to ensure that the provisions of the various enactments amended, in relation to the recognition and enforcement of judgments as between courts in England and Wales and courts in other EU Member States, are consistent with the provisions of the recast Judgments Regulation. The recast Judgments Regulation, which comes into force on 10th January 2015, replaces Council Regulation (EC) No. 44/2001 of 22 December 2000) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“the original Judgments Regulation”). The Regulations can be seen at:

<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012R1215> (2012)

and

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0044:20100514:EN:PDF> (2000).

4.2 This instrument is made under section 2(2) of the European Communities Act 1972. The Secretary of State for Justice has been designated for the purposes of that section in relation to private international law, and the recast Regulation, and the amendments which are made by this instrument, concern matters of private international law (namely, jurisdiction and the recognition and enforcement of judgments, in civil and commercial matters within the Regulation’s scope).

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales, Scotland and Northern Ireland; and an amendment, repeal or revocation made by it has the same extent as the enactment which is so amended, repealed or revoked.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 These amendments are made to ensure that the provisions of a number of enactments relating to procedure in relation to the recognition and enforcement of judgments as between courts in England and Wales and courts in other EU Member States, which presently operate in relation to the original Judgments Regulation, are consistent with the provisions of the recast Judgments Regulation. The recast Judgments Regulation, which comes into force on 10th January 2015, replaces Council Regulation (EC) No. 44/2001 of 22 December 2000) on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“the original Judgments Regulation”). The Regulations can be seen at:

<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32012R1215> (2012)

and

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2001R0044:20100514:EN:PDF> (2000).

7.2 The recast Judgments Regulation contains revised provisions both on jurisdiction, and on recognition and enforcement of judgments. The provisions on jurisdiction are directly effective and do not require amendment of enactments, save of a purely consequential sort to replace references to the original Judgments Regulation or provisions of it with references to the recast Judgments Regulation or provisions of it. The main amendments made by this instrument are to provisions in relation to recognition and enforcement which require amendment to reflect the provision in the recast Judgments Regulation. The main change is the removal of the process known as *exequatur* which, under the original Judgments Regulation, requires a judgment of a court in another Member State which is to be enforced in one of the jurisdictions in the United Kingdom to undergo a process involving registration and a declaration of enforceability in the relevant jurisdiction before it can be enforced there.

7.3 The amendments made by this instrument do five things:

(a) replace references to the original Judgments Regulation and provisions of that version of the Regulation with references to the recast Judgments Regulation and provisions of the recast Judgments Regulation;

- (b) remove references to requirements for registration in a jurisdiction in the United Kingdom of a judgment of a court in another Member State;
- (c) replace references to registration of judgments under the Regulation with references to enforcement under the Regulation;
- (d) remove provisions relating to enforcement of maintenance orders under the Regulation, since maintenance orders are not enforceable under the recast Judgments Regulation; and
- (e) make provision for jurisdiction in relation to the power pursuant to Article 54 of the recast to “adapt” a legal remedy for enforcement.

7.4 This instrument makes transitional and saving provisions to cater for the fact that the original Judgments Regulation will continue to apply in relation to judgments arising from proceedings instigated before 10 January 2015. The enactments amended will in such cases continue to apply as they stood immediately before the amendments made by this instrument.

Consolidation

7.5 No further consolidation of the various enactments amended is planned at present.

8. Consultation outcome

8.1 The Advisory Committee on Private International Law, whose members consist of senior judiciary, academics and practitioners who are experts in this field, has been consulted on the amendments.

9. Guidance

9.1 The amendments made by this instrument will, in England and Wales, operate in tandem with amendments to the Civil Procedure Rules, which will be published in consolidated version and will be available on the Ministry of Justice website.

10. Impact

10.1 A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

11. Regulating small business

11.1 The legislation applies to small businesses such as legal practices but impact would not be significant.

12. Monitoring and review

12.1 The recast Judgments Regulation (itself the product of such a review) will be kept under review at EU level. The operation of the amended enactments will also be kept under review, as will the Civil Procedure Rules 1998 (which are kept under review by the Civil Procedure Rule Committee).

13. Contact

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