
STATUTORY INSTRUMENTS

2018 No. 1257

**EXITING THE EUROPEAN UNION
CIVIL PROCEEDINGS
EVIDENCE
FAMILY PROCEEDINGS**

The Service of Documents and Taking of Evidence
in Civil and Commercial Matters (Revocation and
Saving Provisions) (EU Exit) Regulations 2018

<i>Sift requirements satisfied</i>	<i>13th November 2018</i>
<i>Made - - - -</i>	<i>28th November 2018</i>
<i>Laid before Parliament</i>	<i>30th November 2018</i>
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018(1).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Service of Documents and Taking of Evidence in Civil and Commercial Matters (Revocation and Saving Provisions) (EU Exit) Regulations 2018 and come into force on exit day.

PART 2

Service of Documents in Civil and Commercial Matters

Chapter 1

Interpretation

Interpretation of Part 2

2. In this Part—

“the 2001 Regulations” means the European Communities (Service of Judicial and Extrajudicial Documents) (Scotland) Regulations 2001⁽²⁾;

“the 2008 Regulations” means the European Communities (Service of Judicial and Extrajudicial Documents) (Scotland) Amendment Regulations 2008⁽³⁾;

“the Agreement” means the Agreement between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil or commercial matters⁽⁴⁾;

“Regulation (EC) No 1393/2007” means Regulation (EC) No. 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters and repealing Council Regulation (EC) No. 1348/2000;

“central body” means a central body designated as such by the United Kingdom before exit day for the purposes of Article 3 of Regulation (EC) No 1393/2007 (central body);

“receiving agency” means the public officers, authorities, or other persons designated by the United Kingdom before exit day as being competent for the receipt of judicial or extrajudicial documents from member States for the purposes of Article 2(2) of Regulation (EC) No 1393/2007 (receiving agencies).

Chapter 2

Revocations

Revocation of the 2001 Regulations

3. The 2001 Regulations are revoked.

Revocation of the 2008 Regulations

4. The 2008 Regulations are revoked.

Revocation of Council Decision 2005/794/EC

5. Council Decision (EC) 2005/794 of 20 September 2005, on the signing, on behalf of the Community, of the Agreement between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil or commercial matters, is revoked.

(2) S.S.I. 2001/172, amended by S.S.I. 2008/372.

(3) S.S.I. 2008/372.

(4) OJ No L 300, 17.11.2005, p.55.

Revocation of Council Decision 2006/326/EC

6. Council Decision (EC) 2006/326 of 27 April 2006, concerning the conclusion of the Agreement between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil or commercial matters, is revoked.

Revocation of Regulation (EC) 1393/2007

7. Regulation (EC) No 1393/2007 is revoked.

Chapter 2

Savings

Saving: the 2001 Regulations - judicial and extrajudicial documents received in the United Kingdom before exit day

8. The 2001 Regulations continue to apply in relation to judicial and extrajudicial documents which were received in the United Kingdom before exit day for the purposes of service there by one of the following—

- (a) a receiving agency;
- (b) a central body;
- (c) diplomatic or consular agents as referred to in Article 13 of Regulation (EC) No 1393/2007 (service by diplomatic or consular agents);
- (d) an addressee where the documents have been sent directly to that person by postal services as referred to in Article 14 of Regulation (EC) No 1393/2007 (service by postal services); or
- (e) judicial officers, officials or other competent persons of the United Kingdom, as referred to in Article 15 of Regulation (EC) No 1393/2007 (direct service).

Saving: Regulation (EC) No 1393/2007 - judicial and extrajudicial documents received in the United Kingdom before exit day

9.—(1) Regulation (EC) No 1393/2007 continues to apply with the modifications set out in paragraph (2) in relation to judicial and extrajudicial documents which were received in the United Kingdom before exit day for the purposes of service there by one of the following—

- (a) a receiving agency;
 - (b) a central body;
 - (c) diplomatic or consular agents as referred to in Article 13 of that Regulation (service by diplomatic or consular agents);
 - (d) an addressee where the documents have been sent directly to that person by postal services as referred to in Article 14 of that Regulation (service by postal services); or
 - (e) judicial officers, officials or other competent persons of the United Kingdom, as referred to in Article 15 of that Regulation (direct service).
- (2) Those modifications are that Regulation (EC) No 1393/2007 must be read as if—
- (a) the term “Member State” included the United Kingdom;
 - (b) Article 2(4) (provision of information to the Commission about receiving agencies) were omitted;
 - (c) Article 17 (implementing rules) were omitted;
 - (d) Article 18 (committee) were omitted;

- (e) Article 20(2) and (3) (relationship with agreements or arrangements to which Member States are party) were omitted;
- (f) Article 21 (legal aid) were omitted;
- (g) Article 22(4) (protection of information transmitted) were omitted;
- (h) Article 23 (communication and publication) were omitted;
- (i) Article 24 (review) were omitted.

Chapter 3

The Agreement - cessation, and saving, of rights etc.

The Agreement: cessation, and saving, of rights etc.

10.—(1) Any rights, powers, liabilities, obligations, restrictions, remedies and procedures which are derived from the Agreement and continue by virtue of section 4(1) of the European Union (Withdrawal) Act 2018, cease to be recognised and available in domestic law (and to be enforced, allowed and followed accordingly).

(2) Any such rights, powers, liabilities, obligations, restrictions, remedies and procedures derived from the Agreement continue to be recognised and available, as if the United Kingdom remained a State bound by the Agreement on and after exit day, in relation to judicial and extrajudicial documents which were received in the United Kingdom before exit day for the purposes of service there by one of the bodies referred to in sub-paragraphs (a) to (e) of regulation 9(1) of these Regulations.

PART 3

Taking of Evidence in Civil and Commercial Matters

Interpretation of Part 3

11. In this Part “Regulation (EC) No 1206/2001” means Regulation (EC) No 1206/2001 of the Council of the European Union on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

Revocation of Regulation (EC) 1206/2001

12. Regulation (EC) No 1206/2001 is revoked.

Saving: Regulation (EC) No 1206/2001 – requests received in the United Kingdom before exit day

13.—(1) Regulation (EC) No 1206/2001 continues to apply with the modifications set out in paragraph (2) in relation to requests received in the United Kingdom before exit day by one of the following—

- (a) a requested court;
 - (b) a central body;
 - (c) a central body or competent authority referred to in Article 17(1) of that Regulation (request by a court to take evidence directly in another Member State).
- (2) Those modifications are that Regulation (EC) No 1206/2001 must be read as if—
- (a) the term “Member State” included the United Kingdom;

- (b) Article 2(2) (list of courts) were omitted;
 - (c) Article 19 (implementing rules) were omitted;
 - (d) Article 20 (committee) were omitted;
 - (e) Article 21(3) (agreements to be sent to the Commission) were omitted;
 - (f) Article 22 (provision of information to the Commission) were omitted;
 - (g) Article 23 (review) were omitted;
 - (h) in the Annex to that Regulation, “(OJ L 174, 27.6.2001, p.1)” in each place where that phrase appears, were omitted.
- (3) For the purposes of this regulation—
- (a) “central body” means a central body designated as such by the United Kingdom before exit day for the purposes of Article 3(1) of Regulation (EC) No 1206/2001 (central body);
 - (b) “competent authority” means a competent authority designated by the United Kingdom before exit day for the purposes of Article 3(3) of Regulation (EC) No 1206/2001;
 - (c) “requested court” has the meaning given by Article 2(1) of Regulation (EC) No 1206/2001 (direct transmission between the courts);
 - (d) “requests” has the meaning given by Article 2(1) of Regulation (EC) No 1206/2001.

Signed by authority of the Secretary of State for Justice.

28th November 2018

Lucy Frazer
Parliamentary Under Secretary of State,
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(c)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of cross-border judicial cooperation regarding the service of documents and the taking of evidence in civil and commercial matters.

Part 2 relates to the cross-border service of documents. It revokes Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in Member States of judicial and extrajudicial documents in civil or commercial matters (the Service Regulation). It also revokes two Scottish Statutory Instruments and provides for the cessation of any rights, powers, liabilities, obligations, restrictions, remedies and procedures which are derived from the Agreement between the European Community and the Kingdom of Denmark on the service of judicial and extrajudicial documents in civil or commercial matters (the Agreement). Part 2 then saves the substantive Scottish Statutory Instrument and the rights, etc. deriving from the Agreement, and saves and modifies the Service Regulation for application to documents that were received by certain United Kingdom bodies before exit day for service in the United Kingdom.

Part 3 relates to the cross-border taking of evidence. It revokes Regulation (EC) No. 1206/2001 of the Council of the European Union on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (the Evidence Regulation). It then saves and modifies the Evidence Regulation for application to requests received by certain United Kingdom bodies before exit day in the United Kingdom.

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