

2020 No. 371

JUDGMENTS

**The Reciprocal Enforcement of Foreign Judgments (Norway)
Amendment (Scotland) Order 2020**

Made - - - - - *11th November 2020*

Laid before the Scottish Parliament *13th November 2020*

Coming into force in accordance with article 1

At the Court at Windsor Castle, the 11th day of November 2020

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the Foreign Judgments (Reciprocal Enforcement) Act 1933(a), is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and extent

1.—(1) This Order may be cited as the Reciprocal Enforcement of Foreign Judgments (Norway) Amendment (Scotland) Order 2020.

(2) This Order comes into force on the later of—

- (a) IP completion day,
- (b) the day on which, and immediately after, the notification requirements are fulfilled.

(3) For the purposes of paragraph (2)(b), the notification requirements are fulfilled on the day when the Government of the United Kingdom and the Government of the Kingdom of Norway notify each other in accordance with—

- (a) Article 3(1) of the Agreement that their respective internal procedures for bringing the Agreement into force have been completed, or if earlier,
- (b) Article 3(3) of the Agreement that they agree to provisionally apply the Agreement,

but if in either case the notifications are not given on the same day, the notification requirements are fulfilled on the day when the later of those notifications is given.

(4) The Scottish Ministers must give notice in the Edinburgh Gazette of the date on which the Order comes into force pursuant to paragraph (2).

(5) For the purposes of this article, “the Agreement” means the Agreement on the continued application and amendment of the Convention between the Government of the United Kingdom of

(a) 1933 c.13 (23 and 24 Geo. 5), section 1 was amended by paragraph 1 of schedule 10 of the Civil Jurisdiction and Judgments Act 1982 (c.27).

Great Britain and Northern Ireland and the Government of the Kingdom of Norway providing for the reciprocal recognition and enforcement of judgments in civil matters signed at London on 12 June 1961, signed at Oslo on 13th October 2020, as set out in the schedule of this Order.

(6) This Order extends to Scotland only.

Amendment of the Reciprocal Enforcement of Foreign Judgments (Norway) Order, 1962

2.—(1) The Reciprocal Enforcement of Foreign Judgments (Norway) Order, 1962^(a) is amended as follows.

(2) In article 2—

- (a) for “superior” substitute “recognised”,
- (b) for “County Courts” substitute “District Courts”, and
- (c) for “City Courts” substitute “Conciliation Boards”.

(3) In each of the following, for “superior” substitute “recognised”—

- (a) article 3,
- (b) article 5, and
- (c) article 6.

(4) For article 4 substitute—

“**4.**—(1) An application for the registration of a judgment of a recognised court of the Kingdom of Norway must be accompanied by an affidavit or other written and sworn evidence of the facts as required by the relevant rules of court.

(2) That evidence must include a statement that specifies whether at the date of the application—

- (a) the judgment can be enforced in the Kingdom of Norway, and
- (b) the time for appeal has elapsed without any proceedings by way of appeal having been instituted against that judgment.

(3) In this article, “the relevant rules of court” means the rules of court applicable in the court to which the application has been made.”.

Richard Tilbrook
Clerk of the Privy Council

^(a) S.I. 1962/636.

SCHEDULE

Article 1(5)

AGREEMENT ON THE CONTINUED APPLICATION AND AMENDMENT OF THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF NORWAY PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL MATTERS SIGNED AT LONDON ON 12 JUNE 1961

The Government of the United Kingdom of Great Britain and Northern Ireland (the United Kingdom) and the Government of the Kingdom of Norway (Norway);

CONSIDERING that on 31 January 2020, the United Kingdom of Great Britain and Northern Ireland withdrew from the European Union and, under the terms of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, entered into a time-limited transition period,

TAKING INTO ACCOUNT that the Lugano Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of 30 October 2007, hereafter the “Lugano Convention 2007”, superseded the Convention between the United Kingdom and Norway providing for the Reciprocal Recognition and Enforcement of Judgments in Civil Matters signed in London on June 1961, hereafter the “1961 Convention” save that in accordance with the terms of Articles 65 and 66 of the Lugano Convention 2007, the 1961 Convention continued to have effect in relation to matters to which the Lugano Convention 2007 does not apply,

RECOGNISING that the Lugano Convention 2007 will cease to apply to the United Kingdom at the end of the transition period, unless the United Kingdom has become an independent contracting party to the Lugano Convention 2007,

RECOGNISING the intention of the United Kingdom to become an independent contracting party to the Lugano Convention 2007 and the intention of Norway to support that application,

DESIRING to ensure that judgments in civil matters continue to be recognised and enforced between the Parties pending the outcome of the application, and therefore seeking to apply and amend the 1961 Convention should the United Kingdom not have become a party to the Lugano Convention 2007 by the end of the transition period,

Have agreed as follows:

ARTICLE 1

The 1961 Convention shall continue to apply between the United Kingdom and Norway with the following amendments:

- (a) In Article II (1)(a):
 - (i) for “House of Lords” substitute “Supreme Court and tribunals”, and

- (ii) after “for England and Wales”, for “the Supreme Court of Judicature (Court of Appeal and High Court of Justice) and the Courts of Chancery of the Counties Palatine of Lancaster and Durham” substitute “the Court of Appeal, the High Court of Justice, the County Court, Magistrates Court, Crown Court and tribunals”,
 - (iii) after “for Scotland”, for “the Court of Session and the Sheriff Court” substitute “the Court of Session, Justice of the Peace (JP) Courts, Sheriff Courts, the Scottish Land Court, the High Court of Justiciary and tribunals”, and
 - (iv) after “Northern Ireland”, for “the Supreme Court of Judicature” substitute “the Court of Judicature, Court of Appeal, County Court, Magistrates Court, Crown Court and tribunals”.
- (b) In Article II (1)(b), for “the County Courts and City Courts” substitute “the District Courts and the Conciliation Boards”.
 - (c) In Article III (2)(b), after “the Convention on Legal Proceedings in Civil and Commercial Matters signed between the United Kingdom and Norway on January 30, 1931” insert “or under the provisions of Articles 3-6, 8 or 9 of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters concluded on 15 November 1965 (subject to any reservations or declarations made by either the United Kingdom or Norway)”.
 - (d) In Article V (a), delete “including Avsetning”.
 - (e) In Article VI (1)(c), for “Supreme Court of Judicature” substitute “High Court”.
 - (f) In Article VI (2)(a), for “a certified copy of the complete judgment authenticated by the court seal”, substitute “a certified copy of the judgment which satisfies the conditions necessary to establish its authenticity under the laws of the state of the original court”.
 - (g) In Article VI (2)(b):
 - (i) after “an affidavit” insert “or other written and sworn evidence (verified in accordance with the rules of the court applied to)”;
 - (ii) for “by Avsetning or ordinary execution”, substitute “and specifying whether at the date of the application the time for appeal has elapsed without any proceedings by way of appeal having been instituted against the judgment.”
 - (h) In Article VI (2)(c), after “any affidavit” insert “or verified and sworn written evidence”.
 - (i) In Article VII (2)(a), for “a certified copy of the judgment authenticated by the court seal”, substitute “a certified copy of the judgment which satisfies the conditions necessary to establish its authenticity under the laws of the state of the original court”.
 - (j) After Article XI, a new Article XII shall be inserted as follows: “This Convention is subject to and shall not affect the obligations of either party under the Lugano Convention 2007 or under any other Convention or Agreement governing the recognition and enforcement of judgments in particular matters. In particular, should any inconsistency arise between the operation of the Lugano Convention 2007 and this Convention, the provisions of the Lugano Convention 2007 shall take precedence”.

ARTICLE 2

1. The 1961 Convention as amended by this Amendment Agreement shall only apply to judgments given in proceedings that were instituted in a court of one of the Parties to the 1961 Convention after this Amendment Agreement enters into force or is provisionally applied;
2. The Parties shall continue to apply the rules of the Lugano Convention 2007 concerning recognition and enforcement of judgments, to the same extent that those rules applied immediately before the Lugano Convention 2007 ceased to apply to the United Kingdom and subject to the same limitations set out therein, to judgments given in proceedings that were instituted in a court of one of the Parties before the Lugano Convention 2007 ceased to apply between the Parties.
3. For the purposes of this Article—
 - (a) the date when proceedings are instituted shall be the date when the document instituting the proceedings is lodged with the court;
 - (b) proceedings by way of an appeal are deemed to be instituted on the same date as the proceedings to which the appeal relates.

ARTICLE 3

1. Each of the Parties to this Amendment Agreement shall notify the other Party of the completion of the procedures required by its law for the entry into force of this Amendment Agreement.
2. This Amendment Agreement shall enter into force on the later of:
 - (i) the date on which the Lugano Convention 2007 ceases to apply to the United Kingdom; and
 - (ii) the date on which both the Parties have notified each other in accordance with paragraph (1).
3. Pending entry into force of this Amendment Agreement the Parties may agree to provisionally apply this Amendment Agreement, by an exchange of notifications through diplomatic channels. Such provisional application shall take effect on the later of:
 - (i) the date on which the Lugano Convention of 2007 ceases to apply to the United Kingdom;
 - (ii) the date of the later of the Parties' notifications.
4. A Party may terminate the provisional application of this Amendment Agreement by written notification to the other Party. Such termination shall take effect on the first day of the second month following that notification.

Done in duplicate in Oslo on 13 October 2020, in the English and Norwegian languages both texts being equally authoritative.

**For for the Government of the United
Kingdom of Great Britain and Northern
Ireland:**

Richard Wood

**For the Government of the Kingdom of
Norway:**

Lars Jacob Hiim

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Reciprocal Enforcement of Foreign Judgments (Norway) Order, 1962 (S.I. 1962/636) to give effect, in Scotland, to the Agreement on the continued application and amendment of the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Norway providing for the reciprocal recognition and enforcement of judgments in civil matters signed at London on 12 June 1961 (the Agreement), which was signed at Oslo on 13 October 2020. This reflects the fact that at 23:00 on 31 December 2020, the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters of 30 October 2007 (the Lugano Convention 2007), to which Norway is a party, will cease to apply to the United Kingdom; the Convention of 12 June 1961, as amended, will therefore continue to apply after this date and provide a system of rules on the mutual recognition and enforcement of judgments in civil matters.

Article 2(2)(b) and (c) of this Order amends the list of courts that are deemed recognised courts of the Kingdom of Norway for the purpose of Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 c.13 (23 and 24 Geo. 5) (“the 1933 Act”), so that judgments of those courts can be enforced in the courts of Scotland. Article 2(4) amends the requirements for the written evidence that must be included when an application is made for the registration of a judgment of a court of the Kingdom of Norway.

Article 2(2)(a) and (3) also amends S.I. 1962/636 to update references to “superior courts” to “recognised courts”, in order to reflect the amendments made to section 1 of the 1933 Act by paragraph 1 of schedule 10 of the Civil Jurisdiction and Judgments Act 1982 (c.27).

The schedule of this Order sets out the text of the Agreement.

An equivalent Order making the same provision in respect of England and Wales and Northern Ireland is also made under section 1 of the 1933 Act.

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

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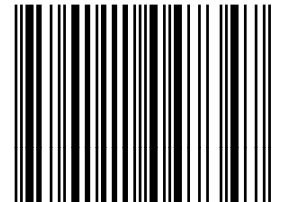
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