

STATUTORY INSTRUMENTS

**1997 No. 2780 (S.174)**

**JUDGMENTS**

**The Civil Jurisdiction and Judgments Act 1982 (Provisional  
and Protective Measures) (Scotland) Order 1997**

*Made* - - - - 26th November 1997  
*Laid before Parliament* 8th December 1997  
*Coming into force* - - 1st January 1998

At the Court at Buckingham Palace, the 26th day of November 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the power conferred on Her by section 27(3) and (4) of the Civil Jurisdiction and Judgments Act 1982(1), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

**Modifications etc. (not altering text)**

**C1** Order applied (with modifications) (31.12.2020) by [The Civil Jurisdiction and Judgments \(Hague Convention on Choice of Court Agreements 2005\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1124\)](#), regs. 1, 7(3); 2020 c. 1, Sch. 5 para. 1(1)

1. This Order may be cited as the Civil Jurisdiction and Judgments Act 1982 (Provisional and Protective Measures) (Scotland) Order 1997 and shall come into force on 1st January 1998.

**Commencement Information**

**II** [Art. 1](#) in force at 1.1.1998, see [art. 1](#)

2. The Court of Session shall have power to do anything mentioned in section 27(1) or 28(2) of the Civil Jurisdiction and Judgments Act 1982 in relation to proceedings of the following descriptions, namely:–

- (1) [1982 c. 27](#); section 27(3) was amended by paragraph 12(b) of Schedule 2 to the Civil Jurisdiction and Judgments Act 1991 (c. 12).
- (2) Section 28 was amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), Schedule 2, paragraph 24 and the Civil Jurisdiction and Judgments Act 1991, Schedule 2, paragraph 12.

- (a) proceedings commenced otherwise than in <sup>F1</sup>... [<sup>F2</sup> a 2005 Hague Convention State];
- (b) proceedings whose subject-matter is not within [<sup>F3</sup>scope of the 2005 Hague Convention as determined by Articles 1 and 2 of that Convention.]

- F1** Words in art. 2(a) omitted (31.12.2020) by virtue of [The Civil Jurisdiction and Judgments \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/479\)](#), regs. 1(1), **72(2)(a)** (with regs. 92-95) (as amended by S.I. 2020/1493, regs. 1(1), 5(2)-(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 2(a) substituted (1.10.2015) by [The Civil Jurisdiction and Judgments \(Hague Convention on Choice of Court Agreements 2005\) Regulations 2015 \(S.I. 2015/1644\)](#), regs. 1(1), **22**
- F3** Words in art. 2(b) substituted (31.12.2020) by [The Civil Jurisdiction and Judgments \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/479\)](#), regs. 1(1), **72(2)(b)** (with regs. 92-95) (as amended by S.I. 2020/1493, regs. 1(1), 5(2)-(5)); 2020 c. 1, Sch. 5 para. 1(1)

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**Commencement Information**

- I2** [Art. 2](#) in force at 1.1.1998, see [art. 1](#)

3. The Court of Session shall have power—
- (a) to grant interim interdict under subsection (1)(c) of section 27 of the Civil Jurisdiction and Judgments Act 1982;
  - (b) to act as described in section 28 of that Act,

in relation to proceedings which are to be commenced otherwise than in <sup>F4</sup>... [<sup>F5</sup> a 2005 Hague Convention State].

- F4** Words in art. 3 omitted (31.12.2020) by virtue of [The Civil Jurisdiction and Judgments \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/479\)](#), regs. 1(1), **72(3)** (with regs. 92-95) (as amended by S.I. 2020/1493, regs. 1(1), 5(2)-(5)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in art. 3 substituted (1.10.2015) by [The Civil Jurisdiction and Judgments \(Hague Convention on Choice of Court Agreements 2005\) Regulations 2015 \(S.I. 2015/1644\)](#), regs. 1(1), **22**

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**Commencement Information**

- I3** [Art. 3](#) in force at 1.1.1998, see [art. 1](#)

*N. H. Nicholls*  
Clerk of the Privy Council

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order enlarges the power of the Court of Session to grant provisional and protective measures in aid of legal proceedings in other countries. At present such measures can only be granted where the principal proceedings are taking place in a country which is a party to the 1968 Brussels Convention or the 1988 Lugano Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and where the proceedings are within the scope of those Conventions. This Order removes those two limitations from the Court's powers.

**Changes to legislation:**

There are currently no known outstanding effects for the The Civil Jurisdiction and Judgments Act 1982 (Provisional and Protective Measures) (Scotland) Order 1997.