
STATUTORY INSTRUMENTS

2019 No. 479

**The Civil Jurisdiction and Judgments
(Amendment) (EU Exit) Regulations 2019**

Part 6

Savings

Savings relating to jurisdiction, recognition and enforcement

92.—(1) Subject to paragraph (5) and to regulation 93, this regulation applies—

- (a) where one of the relevant instruments applies immediately before exit day to determine questions relating to the jurisdiction of a court in any part of the United Kingdom to hear proceedings of which that court was seised before exit day and which are not concluded before exit day;
- (b) in relation to recognition or enforcement by a court in any part of the United Kingdom of—
 - (i) a judgment or decision given in proceedings of which a court in a State bound by a relevant instrument was seised before exit day;
 - (ii) a court settlement concluded, or authentic instrument registered, before exit day in a State bound by a relevant instrument,

where the question of recognition or enforcement has not arisen for consideration by the first mentioned court before exit day, or having so arisen, that court has not concluded its consideration before that day.

(2) The relevant instruments referred to in paragraph (1) are—

- (a) the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial matters, signed at Brussels on 27 September 1968;
- (b) the Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, between the member States of the European Communities and the Republic of Iceland, the Kingdom of Norway and the Swiss Confederation, signed by the member States on 16 September 1988;
- (c) the Agreement between the European Community and the Kingdom of Denmark on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, of 19 October 2005;
- (d) the 2007 Lugano Convention;
- (e) Regulation (EC) No 44/2001;
- (f) Regulation (EU) No 1215/2012.

(3) Notwithstanding the provision made by these Regulations, and subject to regulation 93, on and after exit day—

- (a) the relevant instruments, as they are incorporated or saved by sections 3 and 4 of the European Union (Withdrawal) Act 2018, continue to have effect in relation to questions

of jurisdiction, or recognition or enforcement, mentioned in paragraph (1) as if those instruments had not been revoked by these Regulations and the United Kingdom remained a member State;

- (b) EU-derived domestic legislation relating to the relevant instruments, as it is saved by section 2 of the European Union (Withdrawal) Act 2018, continues to have effect in relation to questions of jurisdiction, or recognition or enforcement, mentioned in paragraph (1) as if the provision made by these Regulations in respect of that legislation had not been made and the United Kingdom remained a member State.

(4) In this regulation, a reference to “recognition” includes non-recognition if the context so requires.

(5) This regulation does not apply to a maintenance obligation or request to which the International Recovery of Maintenance (Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance 2007) (EU Exit) Regulations 2018(1) apply.

Modifications of relevant instruments and EU-derived domestic legislation saved by regulation 92

93.—(1) In any case where regulation 92 applies, the relevant instruments and EU-derived domestic legislation saved by regulation 92 apply with the following modifications.

(2) Where before exit day a court in any part of the United Kingdom (the UK court) was seised of proceedings to which a relevant instrument applies, and a court in a State bound by that relevant instrument is subsequently seised of proceedings involving the same cause of action and between the same parties, the UK court may after exit day decline jurisdiction if, and only if, it considers that it would be unjust not to do so.

(3) If before exit day a court in any part of the United Kingdom was seised of proceedings against a defendant domiciled in a State bound by a relevant instrument, and it has not been possible to transmit the document instituting the proceedings in accordance with Regulation (EC) No. 1393/2007 by reason of the exit of the United Kingdom from the European Union, then, if the defendant does not appear before the court, the court may apply whichever of the following provisions of that relevant instrument listed below as appears just—

- (a) Article 26(2) or (4) of Regulation (EC) No 44/2001;
- (b) Article 26(2) or (4) of the 2007 Lugano Convention;
- (c) Article 28(2) or (4) of Regulation (EU) No 1215/2012.

(4) Where regulation 92(1)(b) applies, any obligation to provide or serve a certificate under any of the following provisions does not apply—

- (a) Articles 54, 57 and 58 of Regulation (EC) No 44/2001;
- (b) Articles 54, 57 and 58 of the 2007 Lugano Convention;
- (c) Articles 53 and 60 of Regulation (EU) No 1215/2012.

(5) In this regulation, “Regulation (EC) No. 1393/2007” means Regulation (EC) No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) and repealing Council Regulation (EC) No. 1348/2000.

(6) In this regulation, references to “defendant” include “defender”.

Savings for European Enforcement Orders and European Orders for Payment applied for, and European Small Claims Procedures commenced, before exit day

94.—(1) This regulation applies in relation to the provisions of Regulation (EU) No 1215/2012 (including those provisions as applied to references to Regulation (EC) No 44/2001 by Article 80 of the first mentioned Regulation) which are referred to by, or applied for the purposes of, the following instruments—

- (a) Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims;
- (b) Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure;
- (c) Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure.

(2) The provisions of Regulation (EU) No 1215/2012 mentioned in paragraph (1), as incorporated by section 3 of the European Union (Withdrawal) Act 2018, continue to have effect in relation to European Enforcement Orders and European orders for payment applied for, and European Small Claims procedures commenced, before exit day to which regulations 16, 17 and 18 of the European Enforcement Order, European Order for Payment and European Small Claims Procedures (Amendment etc.) (EU Exit) Regulations 2018(2) apply, as if the revocation of those provisions by these Regulations had not occurred and the UK remained a member State.

(3) Where a statement of opposition is lodged after exit day in accordance with regulation 17 of the European Enforcement Order, European Order for Payment and European Small Claims Procedure (Amendment etc.) (EU Exit) Regulations 2018 in relation to an application for a European Order for Payment made before exit day, regulation 92(3) of these Regulations applies to the proceedings transferred in accordance with regulation 17 of the first mentioned Regulations as if the court to which they are transferred had been seised of those proceedings before exit day.

Interpretation of this Part

95.—(1) In this Part—

“relevant instrument” means an instrument mentioned in paragraph (2) of regulation 92;

“Regulation (EU) No 1215/2012” means 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, including as applied by virtue of the Agreement between the European Community and the Kingdom of Denmark on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, of 19 October 2005;

“Regulation (EC) No 44/2001” means Council Regulation (EC) No 44/2001 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, including as applied by virtue of the Agreement between the European Community and the Kingdom of Denmark on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters, of 19 October 2005;

“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 Community on 30 October 2007.

(2) In this Part, a court shall be deemed to be seised—

- (a) at the time when the document instituting the proceedings or an equivalent document is lodged with the court, provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have service effected on the respondent; or
 - (b) if the document has to be served before being lodged with the court, at the time when it is received by the authority responsible for service (being the first authority receiving the document to be served), provided that the applicant has not subsequently failed to take the steps the applicant was required to take to have the document lodged with the court.
- (3) In paragraph (2), references to “applicant” include “claimant” or “pursuer”, and references to “respondent” include “defendant” or “defender”.
- (4) Nothing in this Part shall be interpreted as saving any obligation upon the United Kingdom under any of the relevant instruments to notify the Depository or the European Commission, as the case may be, of any matter, or update any such notification after exit day.