

EXHIBIT 41

Part 1

Civil Jurisdiction and Judgments Act 1982

1982 CHAPTER 27

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An Act to make further provision about the jurisdiction of courts and tribunals in the United Kingdom and certain other territories and about the recognition and enforcement of judgments given in the United Kingdom or elsewhere; to provide for the modification of certain provisions relating to legal aid; and for connected purposes.

[13th July 1982]

Extent

Preamble: United Kingdom

PART I

IMPLEMENTATION OF THE CONVENTIONS

Main implementing provisions

Law In Force

1.— Interpretation of references to the Conventions and Contracting States.

(1) In this Act—

“the 1968 Convention” means the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (including the Protocol annexed to that Convention), signed at Brussels on 27th September 1968;

“the 1971 Protocol” means the Protocol on the interpretation of the 1968 Convention by the European Court, signed at Luxembourg on 3rd June 1971;

“the Accession Convention” means the Convention on the accession to the 1968 Convention and the 1971 Protocol of Denmark, the Republic of Ireland and the United Kingdom, signed at Luxembourg on 9th October 1978;

[“the 1982 Accession Convention” means the Convention on the accession of the Hellenic Republic to the 1968 convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention, signed at Luxembourg on 25th October 1982;]¹

[“the 1989 Accession Convention” means the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention and the 1982 Accession Convention, signed at Donostia—San Sebastián on 26th May 1989;]²

[“the 1996 Accession Convention” means the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 Convention and the 1971 Protocol, with the adjustments made to them by the Accession Convention, the 1982 Accession Convention and the 1989 Accession Convention, signed at Brussels on 29th November 1996;]³

[[“the Brussels Conventions”]⁵ means the 1968 Convention, the 1971 Protocol, the Accession Convention, the 1982 Accession Convention [, the 1989 Accession Convention and the 1996 Accession Convention]⁶ [;]⁷]⁴

[“the 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 European Community on 30th October 2007;]⁸

[“the Regulation” means Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ No. L 299 16.11.2005 at p62).]⁹

(2) In this Act, unless the context otherwise requires—

[(a) references to, or to any provision of, the 1968 Convention or the 1971 Protocol are references to that Convention, Protocol or provision as amended by the Accession Convention, the 1982 Accession Convention [, the 1989 Accession Convention and the 1996 Accession Convention]¹¹; and]¹⁰

(aa) [...] ¹²

[(b) any reference in any provision to a numbered Article without more is a reference—
 (i) to the Article so numbered of the 1968 Convention, in so far as the provision applies in relation to that Convention, and
 (ii) to the Article so numbered of the Lugano Convention, in so far as the provision applies in relation to that Convention,
 and any reference to a sub-division of a numbered Article shall be construed accordingly.
]¹³

[(3) In this Act—

“Contracting State”, without more, in any provision means —

- (a) in the application of the provision in relation to the Brussels Conventions, a Brussels Contracting State; and
- (b) in the application of the provision in relation to the Lugano Convention, a [State bound by the Lugano Convention]¹⁵ ;

[“Brussels Contracting State” means a state which is one of the original parties to the 1968 Convention or one of the parties acceding to that Convention under the Accession Convention, or under the 1982 Accession Convention, or under the 1989 Accession Convention, but only with respect to any territory—

- (a) to which the Brussels Conventions apply; and
- (b) which is excluded from the scope of the Regulation pursuant to Article 299 of the Treaty establishing the European Community;

] ¹⁶

[“State bound by the Lugano Convention” in any provision, in the application of that provision in relation to the Lugano Convention has the same meaning as in Article 1(3) of that Convention;]¹⁷

[“Regulation State” in any provision, in the application of that provision in relation to the Regulation, means a Member State.]¹⁸

] ¹⁴

[(4) Any question arising as to whether it is the Regulation, any of the Brussels Conventions, or the Lugano Convention which applies in the circumstances of a particular case shall be determined as follows—

(a) in accordance with [Article 64 of the Lugano Convention]²⁰ (which determines the relationship between the Brussels Conventions and the Lugano Convention); and

(b) in accordance with Article 68 of the Regulation (which determines the relationship between the Brussels Conventions and the Regulation).

] ¹⁹

Notes

¹ Definition inserted by S.I. 1989/1346, art. 3

² Added by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.3 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

³ Definition inserted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.3(a) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)

⁴ Substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.4 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

⁵ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 s.2(2) (May 1, 1992: represents law in force as at date shown)

⁶ Words substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.3(b) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)

⁷ Definition inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 s.2(3) (May 1, 1992: represents law in force as at date shown)

⁸ Definition substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.3(2) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)

⁹ Definition substituted by Civil Jurisdiction and Judgments Regulations 2007/1655 reg.2(2) (July 1, 2007)

¹⁰ Substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.5 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

¹¹ Words substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.4 (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)

¹² Repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.3(3) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

¹³ Substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 s.2(4) (May 1, 1992: represents law in force as at date shown)

- ¹⁴ Existing definition substituted for definition of "Brussels Contracting State" and a new definition of "Contracting State" is inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 s.2(5) (May 1, 1992: represents law in force as at date shown)
- ¹⁵ Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.3(4)(a) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)
- ¹⁶ Definition substituted by Civil Jurisdiction and Judgments Regulations 2007/1655 reg.2(3)(a) (July 1, 2007)
- ¹⁷ Definition substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.3(4)(b) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)
- ¹⁸ Definition substituted by Civil Jurisdiction and Judgments Regulations 2007/1655 reg.2(3)(b) (July 1, 2007)
- ¹⁹ Added by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(I) para.1(c) (March 1, 2002)
- ²⁰ Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.3(5) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt I s. 1: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 1(1)-(4)(b): United Kingdom

Law In Force

2.— The [Brussels Conventions]¹ to have the force of law.

(1) The [Brussels Conventions]¹ shall have the force of law in the United Kingdom, and judicial notice shall be taken of them.

[(2) For convenience of reference there are set out in [Schedules 1, 2, 3, 3A, 3B and 3C]³ respectively the English texts of—

(a) the 1968 Convention as amended by Titles II and III of the Accession Convention, by Titles II and III of the 1982 Accession Convention [...] ⁴ by Titles II and III of, and Annex I(d) to, the 1989 Accession Convention [and by Titles II and III of the 1996 Accession Convention] ⁵ ;

(b) the 1971 Protocol as amended by Title IV of the Accession Convention, by Title IV of the 1982 Accession Convention [...] ⁴ by Title IV of the 1989 Accession Convention [and by Title IV of the 1996 Accession Convention] ⁶ ;

(c) Titles V and VI of the Accession Convention (transitional and final provisions) as amended by Title V of the 1989 Accession Convention;

(d) Titles V and VI of the 1982 Accession Convention (transitional and final provisions); [...] ⁷

(e) Titles VI and VII of the 1989 Accession Convention (transitional and final provisions) [; and] ⁷

[(f) Titles V and VI of the 1996 Accession Convention (transitional and final provisions),] ⁷ being texts prepared from the authentic English texts referred to in Articles 37 and 41 of the Accession Convention, in Article 17 of the 1982 Accession Convention [, in Article 34 of the 1989 Accession Convention and in Article 18 of the 1996 Accession Convention] ⁸ .

] ²

Notes

- ¹ Substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.1 (May 1, 1992: represents law in force as at date shown)
- ² Substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.7 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)
- ³ Words substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.6(a) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)
- ⁴ Word repealed by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.6(b) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)
- ⁵ Words inserted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.6(c) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)
- ⁶ Words inserted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.6(d) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)
- ⁷ Added by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.6(e) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)
- ⁸ Words substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.6(f) (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)

Commencement

Pt I s. 2: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 2(1)-(2)(f): United Kingdom

Law In Force

3.— Interpretation of the [Brussels Conventions]¹ .

- (1) Any question as to the meaning or effect of any provision of the [Brussels Conventions]¹ shall, if not referred to the European Court in accordance with the 1971 Protocol, be determined in accordance with the principles laid down by and any relevant decision of the European Court.
- (2) Judicial notice shall be taken of any decision of, or expression of opinion by, the European Court on any such question.
- (3) Without prejudice to the generality of subsection (1), the following reports (which are reproduced in the Official Journal of the Communities), namely—

(a) the reports by Mr. P. Jenard on the 1968 Convention and the 1971 Protocol; and
 (b) the report by Professor Peter Schlosser on the Accession Convention [; and]²
 [(c) the report by Professor Demetrios I. Evrigenis and Professor K. D. Kerameus on the
 1982 Accession Convention [; and]⁴]³
 [(d) the report by Mr. Martinho de Almeida Cruz, Mr. Manuel Desantes Real and Mr. P.
 Jenard on the 1989 Accession Convention,]⁴
 may be considered in ascertaining the meaning or effect of any provision of the [Brussels
 Conventions]¹ and shall be given such weight as is appropriate in the circumstances.

Notes

- ¹ Substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.1 (May 1, 1992: represents law in force as at date shown)
² Word inserted by S.I. 1989/1346, art. 8
³ S. 3(3)(c) inserted by S.I. 1989/1346, art. 8
⁴ Added by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.8 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

Commencement

Pt I s. 3: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 3(1)-(3)(d): United Kingdom

 Repealed

3A.— [...] ¹

Notes

- ¹ Repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.4 (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

 Repealed

3B.— [...] ¹

Notes

- ¹ Repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.4 (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

Supplementary provisions as to recognition and enforcement of judgments

Law In Force

4.— Enforcement of judgments other than maintenance orders.

(1) A judgment, other than a maintenance order, which is the subject of an application under Article 31 [of the 1968 Convention [...]]²]¹ for its enforcement in any part of the United Kingdom shall,

to the extent that its enforcement is authorised by the appropriate court, be registered in the prescribed manner in that court.

In this subsection “the appropriate court” means the court to which the application is made in pursuance of Article 32 (that is to say, the High Court or the Court of Session).

(2) Where a judgment is registered under this section, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.

(3) A judgment registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, [as if it was a judgment which had been originally given]³ by the registering court and had (where relevant) been entered.

(4) Subsection (3) is subject to Article 39 (restriction of enforcement where appeal pending or time for appeal unexpired), to section 7 and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under this section may be enforced.

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.2 (May 1, 1992: represents law in force as at date shown)

² Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.5(1) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

³ Words substituted by Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993/604 art.2(2) (April 1, 1993)

Commencement

Pt I s. 4: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 4(1)-(4): United Kingdom

Law In Force

[4A.— Enforcement of judgments, other than maintenance orders, under the Lugano Convention

(1) Where a judgment, other than a maintenance order, is registered under the Lugano Convention, the reasonable costs or expenses of and incidental to its registration shall be recoverable as if they were sums recoverable under the judgment.

(2) A judgment other than a maintenance order registered under the Lugano Convention shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the judgment had been originally given by the registering court and had (where relevant) been entered.

(3) Subsection (2) is subject to Article 47(3) of the Lugano Convention (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 (interest on registered judgments) and to any provision made by rules of court as to the manner in which and conditions subject to which a judgment registered under the Lugano Convention may be enforced.

] ¹**Notes**

¹ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.5(2) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Extent

Pt I s. 4A(1)-(3): United Kingdom

Law In Force

5.— Recognition and enforcement of maintenance orders.

(1) The function of transmitting to the appropriate court an application under Article 31 [of the 1968 Convention [...]²] ¹ for the recognition or enforcement in the United Kingdom of a maintenance order shall be discharged—

- [(a) as respects England and Wales and Northern Ireland, by the Lord Chancellor; and
- (b) as respects Scotland, by the Secretary of State.] ³

In this subsection “the appropriate court” means the magistrates' court or sheriff court having jurisdiction in the matter in accordance with the second paragraph of Article 32.

(2) Such an application shall be determined in the first instance by the prescribed officer of that court.

(3) Where on such an application the enforcement of the order is authorised to any extent, the order shall to that extent be registered in the prescribed manner in that court.

(4) A maintenance order registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, [as if it was an order which had been originally made] ⁴ by the registering court.

(5) Subsection (4) is subject to Article 39 (restriction on enforcement where appeal pending or time for appeal unexpired), to section 7 and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under this section may be enforced.

[(5A) A maintenance order which by virtue of this section is enforceable by a magistrates' court in England and Wales [shall, subject to the modifications of sections 76 and 93 of the Magistrates' Courts Act 1980 specified in subsections (5B) and (5C) below, be enforceable] ⁶ in the same manner as a magistrates' court maintenance order made by that court.

In this subsection 'magistrates' court maintenance order' has the same meaning as in section 150(1) of the Magistrates' Courts Act 1980.

] ⁵

[(5B) Section 76 (enforcement of sums adjudged to be paid) shall have effect as if for subsections (4) to (6) there were substituted the following subsections—

“(4) Where proceedings are brought for the enforcement of a magistrates' court maintenance order under this section, the court may vary the order by exercising one of its powers under subsection (5) below.

(5) The powers of the court are—

- (a) the power to order that payments under the order be made directly to [the designated officer for the court or for any other magistrates' court]⁸ ;
- (b) the power to order that payments under the order be made to [the designated officer for the court or for any other magistrates' court]⁸ , by such method of payment falling within section 59(6) above (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.

(6) In deciding which of the powers under subsection (5) above it is to exercise, the court shall have regard to any representations made by the debtor (within the meaning of section 59 above).

(7) Subsection (4) of section 59 above (power of court to require debtor to open account) shall apply for the purposes of subsection (5) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 76(5) below, and”.

(5C) In section 93 (complaint for arrears), subsection (6) (court not to impose imprisonment in certain circumstances) shall have effect as if for paragraph (b) there were substituted—

- “(b) if the court is of the opinion that it is appropriate—
 - (i) to make an attachment of earnings order; or
 - (ii) to exercise its power under paragraph (b) of section 76(5) above.”

] ⁷

(6) A maintenance order which by virtue of this section is enforceable by a magistrates' court in[...] Northern Ireland shall be enforceable in the same manner as an affiliation order made by that court.

(7) The payer under a maintenance order registered under this section in a magistrates' court in England and Wales or Northern Ireland shall give notice of any change of address to the [proper officer]¹⁰ of that court.

A person who without reasonable excuse fails to comply with this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 2 on the standard scale]¹¹ .

[(8) In subsection (7) “proper officer” means—

- (a) in relation to a magistrates' court in England and Wales, the [designated officer]¹³ for the court; and
- (b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.

] ¹²

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.2 (May 1, 1992: represents law in force as at date shown)

² Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.6(1) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

³ Substituted by Transfer of Functions (Magistrates' Courts and Family Law) Order 1992/709 art.4(7) (April 1, 1992)

⁴ Words substituted by Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993/604 art.3(2) (April 1, 1993)

⁵ S. 5(5A) inserted by Family Law Reform Act 1987 (c. 42), s. 33, Sch. 2 para. 89(2), Sch. 3 paras. 1, 6

- ⁶ Words substituted by Maintenance Enforcement Act 1991 c. 17 Sch.1 para.21(1) (April 1, 1992: represents law in force as at date shown)
- ⁷ Restricted territory by Maintenance Enforcement Act 1991 c. 17 Sch.1 para.21(2) (June 27, 1991: represents law in force as at date shown)
- ⁸ Words substituted by Courts Act 2003 c. 39 Sch.8 para.268(2) (April 1, 2005)
- ⁹ Words repealed by Family Law Reform Act 1987 (c. 42), s. 33, Sch. 2 para. 89(3), Sch. 3 paras. 1, 6
- ¹⁰ Words substituted by Access to Justice Act 1999 c. 22 Sch.13 para.122(3) (April 1, 2001 subject to transitional provisions specified in SI 2001/916 Sch.2 para.2)
- ¹¹ Words substituted by Criminal Justice Act 1982 (c.48), s. 46 and Criminal Procedure (Scotland) Act 1975 (c.21), s. 289G
- ¹² Added by Access to Justice Act 1999 c. 22 Sch.13 para.122(4) (April 1, 2001 subject to transitional provisions specified in SI 2001/916 Sch.2 para.2)
- ¹³ Words substituted by Courts Act 2003 c. 39 Sch.8 para.268(3) (April 1, 2005)

Commencement

Pt I s. 5: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 5(1)-(8)(b): United Kingdom

Law In Force

[5A.— Recognition and enforcement of maintenance orders under the Lugano Convention

(1) The Secretary of State's function (under Article 39 and Annex II of the Lugano Convention) of transmitting to the appropriate court an application for the recognition or enforcement in the United Kingdom of a maintenance order (made under Article 38 of the Lugano Convention) shall be discharged—

- (a) as respects England and Wales and Northern Ireland, by the Lord Chancellor; and
- (b) as respects Scotland, by the Scottish Ministers.

In this subsection “the appropriate court” means the magistrates' court or sheriff court having jurisdiction in the matter in accordance with the second paragraph of Article 39.

(2) Such an application shall be determined in the first instance by the prescribed officer of the court having jurisdiction in the matter.

(3) A maintenance order registered under the Lugano Convention shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have in relation to its enforcement the same powers, and proceedings for or with respect to its enforcement may be taken, as if the order had been made by the registering court.

(4) Subsection (3) is subject to Article 47 of the Lugano Convention (restriction on enforcement where appeal pending or time for appeal unexpired), to subsection (6) and to any provision made by rules of court as to the manner in which and conditions subject to which an order registered under the Lugano Convention may be enforced.

(5) A maintenance order which by virtue of the Lugano Convention is enforceable by a magistrates' court in England and Wales shall, subject to the modifications of sections 76 and 93 of the Magistrates' Courts Act 1980 specified in sections 5(5B) and 5(5C) of the Act, be enforceable in the same manner as a magistrates' court maintenance order made by that court.

In this subsection “magistrates' court maintenance order” has the same meaning as in section 150(1) of the Magistrates' Courts Act 1980.

(6) A maintenance order which by virtue of the Lugano Convention is enforceable by a magistrates' court in Northern Ireland shall, subject to the modifications of Article 98 of the Magistrates' Courts (Northern Ireland) Order 1981 specified in section 5(6A) of this Act, be enforceable as an order made by that court to which that Article applies.

(7) The payer under a maintenance order registered under the Lugano Convention in a magistrates' court in England and Wales or Northern Ireland shall give notice of any change of address to the proper officer of that court.

(8) A person who without reasonable excuse fails to comply with subsection (7) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(9) In subsection (7) “proper officer” means —

- (a) in relation to a magistrates' court in England and Wales, the designated officer; and
- (b) in relation to a magistrates' court in Northern Ireland, the clerk of the court.

] ¹

Notes

- ¹ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.6(2) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Extent

Pt I s. 5A(1)-(9)(b): United Kingdom

Law In Force

6.— Appeals under Article 37, second paragraph and Article 41.

(1) The single further appeal on a point of law referred to [in the 1968 Convention [...]²] ¹ in Article 37, second paragraph and Article 41 in relation to the recognition or enforcement of a judgment other than a maintenance order lies—

- (a) in England and Wales or Northern Ireland, to the Court of Appeal or to the House of Lords in accordance with Part II of the Administration of Justice Act 1969 (appeals direct from the High Court to the [Supreme Court] ³);
- (b) in Scotland, to the Inner House of the Court of Session.

(2) Paragraph (a) of subsection (1) has effect notwithstanding section 15(2) of the Administration of Justice Act 1969 (exclusion of direct appeal to [the Supreme Court] ⁴ in cases where no appeal to [the Supreme Court] ⁴ lies from a decision of the Court of Appeal).

(3) The single further appeal on a point of law referred to [in [the 1968 Convention] ⁶] ⁵ in Article 37, second paragraph and Article 41 in relation to the recognition or enforcement of a maintenance order lies—

- (a) in England and Wales, [to a county court in accordance with section 111A of the Magistrates' Courts Act 1980] ⁷;
- (b) in Scotland, to the Inner House of the Court of Session;
- (c) in Northern Ireland, to the Court of Appeal.

Notes

- ¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.3(a) (May 1, 1992: represents law in force as at date shown)
- ² Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.7(1) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)
- ³ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.9(1) para.39(a) (October 1, 2009)
- ⁴ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.9(1) para.39(b) (October 1, 2009)
- ⁵ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.3(b) (May 1, 1992: represents law in force as at date shown)
- ⁶ Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.7(2) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)
- ⁷ Words substituted by Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009/871 art.5 (April 6, 2009: substitution has effect subject to transitional provisions specified in SI 2009/871 art.14)

Commencement

Pt I s. 6: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 6(1)-(3)(c): United Kingdom

Law In Force

[6A.— Appeals under Article 44 and Annex IV of the Lugano Convention

(1) The single further appeal on a point of law referred to in Article 44 and Annex IV of the Lugano Convention in relation to the recognition or enforcement of a judgment other than a maintenance order lies—

- (a) in England and Wales or Northern Ireland, to the Court of Appeal or to the Supreme Court in accordance with Part II of the Administration of Justice Act 1969 (appeals direct from the High Court to the Supreme Court);
- (b) in Scotland, to the Inner House of the Court of Session.

(2) Paragraph (a) of subsection (1) has effect notwithstanding section 15(2) of the Administration of Justice Act 1969 (exclusion of direct appeal to the Supreme Court in cases where no appeal to that House lies from a decision of the Court of Appeal).

(3) The single further appeal on a point of law referred to in Article 44 and Annex IV of the Lugano Convention in relation to the recognition or enforcement of a maintenance order lies—

- (a) in England and Wales, to a county court in accordance with section 111A of the Magistrates' Courts Act 1980;
- (b) in Scotland, to the Inner House of the Court of Session;
- (c) in Northern Ireland, to the Court of Appeal.

]¹

Notes

- ¹ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.7(3) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

ExtentPt I s. 6A(1)-(3)(c): United Kingdom

 Law In Force**7.— Interest on registered judgments.**

(1) Subject to subsection (4), where in connection with an application for registration of a judgment under [section 4, 4A, 5 or 5A]¹ the applicant shows—

- (a) that the judgment provides for the payment of a sum of money; and
- (b) that in accordance with the law of the Contracting State in which the judgment was given interest on that sum is recoverable under the judgment from a particular date of time, the rate of interest and the date or time from which it is so recoverable shall be registered with the judgment and, subject to any provision made under subsection (2), the debt resulting, apart from section 4(2), from the registration of the judgment shall carry interest in accordance with the registered particulars.

(2) Provision may be made by rules of court as to the manner in which and the periods by reference to which any interest payable by virtue of subsection (1) is to be calculated and paid, including provision for such interest to cease to accrue as from a prescribed date.

(3) Costs or expenses recoverable by virtue of section 4(2) shall carry interest as if they were the subject of an order for the payment of costs or expenses made by the registering court on the date of registration.

(4) Interest on arrears of sums payable under a maintenance order registered under section 5 in a magistrates' court in England and Wales or Northern Ireland shall not be recoverable in that court, but without prejudice to the operation in relation to any such order of section 2A of the Maintenance Orders Act 1958 or section 11A of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 (which enable interest to be recovered if the order is re-registered for enforcement in the High Court).

(5) Except as mentioned in subsection (4), debts under judgments registered under section [4, 4A, 5 or 5A]¹ shall carry interest only as provided by this section.

Notes

¹ Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.8 (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt I s. 7: January 1, 1987 (SI 1986/2044 art. 2)

ExtentPt I s. 7(1)-(5): United Kingdom

Law In Force

8.— Currency of payment under registered maintenance orders.

(1) Sums payable in the United Kingdom under a maintenance order by virtue of its registration under section 5 [or 5A]¹, including any arrears so payable, shall be paid in the currency of the United Kingdom.

(2) Where the order is expressed in any other currency, the amounts shall be converted on the basis of the exchange rate prevailing on the date of registration of the order.

(3) For the purposes of this section, a written certificate purporting to be signed by an officer of any bank in the United Kingdom and stating the exchange rate prevailing on a specified date shall be evidence, and in Scotland sufficient evidence, of the facts stated.

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.9 (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt I s. 8: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 8(1)-(3): United Kingdom

Other supplementary provisions

Law In Force

9.— Provisions supplementary to Title VII of 1968 Convention.

(1) The provisions of Title VII of the 1968 Convention [and, apart from [Article 64, of Title VII of the Lugano Convention]²]¹ (relationship between [the Convention in question]³ and other conventions to which Contracting States are or may become parties) shall have effect in relation to—

(a) any statutory provision, whenever passed or made, implementing any such other convention in the United Kingdom; and

(b) any rule of law so far as it has the effect of so implementing any such other convention, as they have effect in relation to that other convention itself.

(1A) [...] ⁴

(2) [...] ⁵

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.4(a) (May 1, 1992: represents law in force as at date shown)

² Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.10(1) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)

³ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.4(b) (May 1, 1992: represents law in force as at date shown)

⁴ Repealed by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(1) para.2 (March 1, 2002)

⁵ Repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.10(2) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt I s. 9: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 9(1)-(2): United Kingdom

Law In Force

10.— Allocation within U.K. of jurisdiction with respect to trusts and consumer contracts.

(1) The provisions of this section have effect for the purpose of allocating within the United Kingdom jurisdiction in certain proceedings in respect of which the 1968 Convention [or the Lugano Convention]¹ confers jurisdiction on the courts of the United Kingdom generally and to which section 16 does not apply.

(2) Any proceedings which by virtue of Article 5(6) (trusts) are brought in the United Kingdom shall be brought in the courts of the part of the United Kingdom in which the trust is domiciled.

(3) Any proceedings which by virtue of the first paragraph of Article 14 [of the 1968 Convention or Article 16(1) of the Lugano Convention]² (consumer contracts) are brought in the United Kingdom by a consumer on the ground that he is himself domiciled there shall be brought in the courts of the part of the United Kingdom in which he is domiciled.

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.5 (May 1, 1992: represents law in force as at date shown)

² Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.11 (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt I s. 10: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 10(1)-(3): United Kingdom

Law In Force

11.— Proof and admissibility of certain judgments and related documents.

(1) For the purposes of the 1968 Convention [...] ¹—

(a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a Contracting State other than the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown; and

(b) the original or a copy of any such document as is mentioned in Article 46(2) or 47 (supporting documents to be produced by a party seeking recognition or enforcement of a

judgment) shall be evidence, and in Scotland sufficient evidence, of any matter to which it relates.

[(2) A document purporting to be a copy of an authentic instrument drawn up or registered, and enforceable, in a Contracting State other than the United Kingdom is duly authenticated for the purposes of this section if it purports to be certified to be a true copy of such an instrument by a person duly authorised in that Contracting State to do so.]²

(3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible apart from this section.

Notes

¹ Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.12(1) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

² Substituted by Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993/604 art.4(2) (April 1, 1993)

Commencement

Pt I s. 11: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 11(1)-(3): United Kingdom

Law In Force

[11A.— “Proof and admissibility of certain judgments and related documents for the purposes of the Lugano Convention

(1) For the purposes of the Lugano Convention—

- (a) a document, duly authenticated, which purports to be a copy of a judgment given by a court of a State bound by the Lugano Convention other than the United Kingdom shall without further proof be deemed to be a true copy, unless the contrary is shown; and
- (b) a certificate obtained in accordance with Article 54 and Annex V shall be evidence, and in Scotland sufficient evidence, that the judgment is enforceable in the State of origin which is bound by the Lugano Convention.

(2) A document purporting to be a copy of a judgment given by any such court as is mentioned in subsection (1)(a) is duly authenticated for the purposes of this section if it purports—

- (a) to bear the seal of that court; or
- (b) to be certified by any person in his capacity as a judge or officer of that court to be a true copy of a judgment given by that court.

(3) Nothing in this section shall prejudice the admission in evidence of any document which is admissible apart from this section.

] ¹

Notes

¹ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.12(2) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Extent

Pt I s. 11A(1)-(3): United Kingdom

 Law In Force**12. Provision for issue of copies of, and certificated in connection with, U.K. Judgments.**

[The Court of Session may by Act of Sederunt]¹ make provision for enabling any interested party wishing to secure under the 1968 Convention [or the Lugano Convention]² the recognition or enforcement in another Contracting State of [a judgment within section 18(2)(c)]³ to obtain, subject to any conditions specified in the rules—

- (a) a copy of the judgment; and
- (b) a certificate giving particulars relating to the judgment [...]⁴ .

Notes

- ¹ Words substituted by Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993/604 art.5(2)(a) (April 1, 1993)
- ² Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.7 (May 1, 1992: represents law in force as at date shown)
- ³ Words substituted by Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993/604 art.5(2)(b) (April 1, 1993)
- ⁴ Words repealed by Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993/604 art.5(2)(c) (April 1, 1993)

Commencement

Pt I s. 12: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 12(a)-(b): United Kingdom

 Law In Force**13.— Modifications to cover authentic instruments and court settlements.**

(1) Her Majesty may by Order in Council provide that—

- (a) any provision of this Act relating to the recognition or enforcement in the United Kingdom or elsewhere of judgments to which the 1968 Convention [...]¹ applies; and
- (b) any other statutory provision, whenever passed or made, so relating,

shall apply, with such modifications as may be specified in the Order, in relation to documents and settlements within Title IV of the 1968 Convention [...]¹ (authentic instruments and court settlements enforceable in the same manner as judgments) as if they were judgments to which [the Convention in question]² applies.

(2) An Order in Council under this section may make different provision in relation to different descriptions of documents and settlements.

(3) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

- ¹ Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.13 (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)
- ² Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.8(c) (May 1, 1992: represents law in force as at date shown)

Commencement

Pt I s. 13: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 13(1)-(3): United Kingdom

Law In Force

14.— Modifications consequential on revision of the Conventions.

(1) If at any time it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom have agreed to a revision of [[...]² any of the Brussels Conventions]¹ , including in particular any revision connected with the accession to [the Lugano Convention or]³ the 1968 Convention of one or more further states, Her Majesty may by Order in Council make such modifications of this Act or any other statutory provision, whenever passed or made, as Her Majesty considers appropriate in consequence of the revision.

(2) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

(3) In this section “revision” means an omission from, addition to or alteration of [[...]⁴ any of the Brussels Conventions]¹ and includes replacement of any of the Conventions to any extent by another convention, protocol or other description of international agreement.

Notes

- ¹ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.9(a) (May 1, 1992: represents law in force as at date shown)
- ² Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.14 (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)
- ³ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.9(b) (May 1, 1992: represents law in force as at date shown)
- ⁴ Repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.14 (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt I s. 14: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 14(1)-(3): United Kingdom

Law In Force

15.— Interpretation of Part I and consequential amendments.

(1) In this Part, unless the context otherwise requires—

“judgment” has the meaning given by Article 25 [of the 1968 Convention or, as the case may be, Article 32 of the Lugano Convention]¹;

“maintenance order” means a maintenance judgment within the meaning of the 1968 Convention [or, as the case may be, the Lugano Convention]²;

“payer”, in relation to a maintenance order, means the person liable to make payments for which the order provides;

“prescribed” means prescribed by rules of court.

(2) References in this Part to a judgment registered under [sections 4, 4A, 5 or 5A]³ include, to the extent of its registration, references to a judgment so registered to a limited extent only.

(3) Anything authorised or required by the 1968 Convention [, the Lugano Convention]⁴ or this Part to be done by, to or before a particular magistrates' court may be done by, to or before any magistrates' court acting [in the same local justice area (or, in Northern Ireland, for the same]⁵ petty sessions district) as that court.

(4) [...]⁶

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.15(1) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

² Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.10(a) (May 1, 1992: represents law in force as at date shown)

³ Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.15(2) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)

⁴ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.10(b) (May 1, 1992: represents law in force as at date shown)

⁵ Words substituted by Courts Act 2003 c. 39 Sch.8 para.269 (April 1, 2005)

⁶ Provides for amendments of enactments specified in Sch. 12 Pt.I

Commencement


Pt I s. 15: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt I s. 15(1)-(4): United Kingdom

PART II

JURISDICTION, AND RECOGNITION AND ENFORCEMENT OF JUDGMENTS, WITHIN UNITED KINGDOM

 Law In Force

16.— Allocation within U.K. of jurisdiction in certain civil proceedings.

(1) The provisions set out in Schedule 4 (which contains a modified version of [Chapter II of the Regulation]¹) shall have effect for determining, for each part of the United Kingdom, whether the courts of law of that part, or any particular court of law in that part, have or has jurisdiction in proceedings where—

[(a) the subject-matter of the proceedings is within the scope of the Regulation as determined by Article 1 of the Regulation (whether or not the Regulation has effect in relation to the proceedings); and]²

(b) the defendant or defender is domiciled in the United Kingdom or the proceedings are of a kind mentioned in [Article 22 of the Regulation]³ (exclusive jurisdiction regardless of domicile).

(2) [...]⁴

(3) In determining any question as to the meaning or effect of any provision contained in Schedule 4—

(a) regard shall be had to any relevant principles laid down by the European Court in connection with Title II of the 1998 Convention [or Chapter II of the Regulation]⁵ and to any relevant decision of that court as to the meaning or effect of any provision of that Title [or that Chapter]⁶; and

(b) without prejudice to the generality of paragraph (a), the reports mentioned in section 3(3) may be considered and shall, so far as relevant, be given such weight as is appropriate in the circumstances.

(4) The provisions of this section and Schedule 4 shall have effect subject to [the Regulation,]⁷ the 1968 Convention [and the Lugano Convention]⁸ and to the provisions of section 17.

(5) [...]⁹

Notes

¹ Words substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(II) para.3(a)(i) (March 1, 2002)

² Substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(II) para.3(a)(ii) (March 1, 2002)

³ Words substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(II) para.3(a)(iii) (March 1, 2002)

⁴ Repealed by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(II) para.3(b) (March 1, 2002)

⁵ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(II) para.3(c)(i) (March 1, 2002)

⁶ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(II) para.3(c)(ii) (March 1, 2002)

⁷ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(II) para.3(d) (March 1, 2002)

⁸ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.11(c) (May 1, 1992: represents law in force as at date shown)

⁹ Adds s. 15(1)(a)(vi) to Maintenance Orders Act 1950 (c. 37)

Commencement

Pt II s. 16: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt II s. 16(1)-(5): United Kingdom

Law In Force

17.— Exclusion of certain proceedings from Schedule 4.

(1) Schedule 4 shall not apply to proceedings of any description listed in Schedule 5 or to proceedings in Scotland under any enactment which confers jurisdiction on a Scottish court in respect of a specific subject-matter on specific grounds.

(2) Her Majesty may by Order in Council—

(a) add to the list in Schedule 5 any description of proceedings in any part of the United Kingdom; and

(b) remove from that list any description of proceedings in any part of the United Kingdom (whether included in the list as originally enacted or added by virtue of this subsection).

(3) An Order in Council under subsection (2)—

(a) may make different provisions for different descriptions of proceedings, for the same description of proceedings in different courts or for different parts of the United Kingdom; and

(b) may contain such transitional and other incidental provisions as appear to Her Majesty to be appropriate.

(4) An Order in Council under subsection (2) shall not be made unless a draft of the Order has been laid before parliament and approved by a resolution of each House of Parliament.

Commencement

Pt II s. 17: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt II s. 17(1)-(4): United Kingdom

Law In Force

Amendment(s) Pending

18.— Enforcement of U.K. judgments in other parts of U.K.

(1) In relation to any judgment to which this section applies—

(a) Schedule 6 shall have effect for the purpose of enabling any money provisions contained in the judgments to be enforced in a part of the United Kingdom other than the part in which the judgment was given; and

(b) Schedule 7 shall have effect for the purpose of enabling any non-money provisions so contained to be so enforced.

(2) In this section “judgment” means any of the following (references to the giving of a judgment being construed accordingly)—

- (a) any judgment or order (by whatever name called) given or made by a court of law in the United Kingdom;
- (b) any judgment or order not within paragraph (a) which has been entered in England and Wales or Northern Ireland in the High Court or a county court;
- (c) any document which the Scotland has been registered for execution in the Books of Council and Session or in the sheriff court books kept for any sheriffdom;
- (d) any award or order made by a tribunal in any part of the United Kingdom which is enforceable in that part without an order of a court of law;
- (e) an arbitration award which has become enforceable in the part of the United Kingdom in which it was given in the same manner as a judgment given by a court of law in that part;
- [(f) an order made, or a warrant issued, under Part 8 of the Proceeds of Crime Act 2002 for the purposes of a civil recovery investigation [or a detained cash investigation]² within the [meanings]³ given by section 341 of that Act;]¹

and, subject to the following provisions of this section, this section applies to all such judgments.

(3) Subject to subsection (4), this section does not apply to—

- (a) a judgment given in proceedings in a magistrates' court in England and Wales or Northern Ireland;
- (b) a judgment given in proceedings other the civil proceedings;
- [(ba) a judgment given in the exercise of jurisdiction in relation to insolvency law, within the meaning of section [426 of the Insolvency Act 1986]⁵;]⁴
- (c) a judgment given in proceedings relating to—
 - (i) [...] ⁶
 - (ii) [...] ⁶
 - (iii) the obtaining of title to administer the estate of a deceased person [;]⁷
- [(d) an order made under [Part 2, 3 or 4 of the Proceeds of Crime Act 2002]⁸ (confiscation).]⁷

(4) This section applies, whatever the nature of the proceedings in which it is made, to—

- (a) a decree issued under section 13 of the Court of Exchequer (Scotland) Act 1856 (recovery of certain rent-charges and penalties by process of the Court of Session);
- (b) an order which is enforceable in the same manner as a judgment of the High Court in England and Wales by virtue of section 16 of the Contempt of Court Act 1981 or [section 140 of the Senior Courts Act 1981]⁹ (which relate to fines for contempt of court and forfeiture of recognisances).

[(4A) This section does not apply as respects—

- (a) the enforcement in Scotland of orders made by the High Court or a county court in England and Wales under or for the purposes of Part VI of the Criminal Justice Act 1988 or the Drug Trafficking Act 1994 (confiscation of the proceeds of certain offences or of drug trafficking); or
- (b) the enforcement in England and Wales of orders made by the Court of Session [or by the sheriff]¹¹ under or for the purposes of [the Proceeds of Crime (Scotland) Act 1995]¹² [.]¹³

] ¹⁰

(5) This section does not apply to so much of any judgment as—

- (a) is an order to which section 16 of the Maintenance Orders Act 1950 applies (and is therefore an order for whose enforcement in another part of the United Kingdom provision is made by Part II of that Act);
- (b) concerns the status or legal capacity of an individual;
- (c) relates to the management of the affairs of a person not capable of managing his own affairs;
- (d) is a provisional (including protective) measure other than an order for the making of an interim payment;

and except where otherwise stated references to a judgment to which this section applies are to such a judgment exclusive of any such provisions.

(6) The following are within subsection (5)(b), but without prejudice to the generality of that provision—

- (a) a decree of judicial separation or of separation;
- [(b) any order which is a Part I order for the purposes of the Family Law Act 1986.]¹⁴

(7) This section does not apply to a judgment of a court outside the United Kingdom which falls to be treated for the purposes of its enforcement as a judgments of a court of law in the United Kingdom by virtue of registration under Part II of the Administration of Justice Act 1920, Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933, Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972 or section 4 or 5 of this Act.

(8) A judgment to which this section applies, other than a judgment within paragraph (e) of subsection (2), shall not be enforced in another part of the United Kingdom except by way of registration under Schedule 6 or 7.

Notes

- ¹ Added by Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003/425 Pt 6 art.34 (April 1, 2003)
- ² Words inserted by Serious Crime Act 2007 c. 27 Sch.10 para.26(a) (April 6, 2008 subject to transitional and transitory provisions and savings as specified in SI 2008/755 art.17(2) and (3))
- ³ Word substituted by Serious Crime Act 2007 c. 27 Sch.10 para.26(b) (April 6, 2008 subject to transitional and transitory provisions and savings as specified in SI 2008/755 art.17(2) and (3))
- ⁴ S. 18(3)(ba) inserted by Insolvency Act 1985 (c.65), s. 235, Sch. 8 para. 36
- ⁵ Words substituted by Insolvency Act 1986 (c.45), s. 439(2), Sch. 14
- ⁶ Repealed by Insolvency Act 1985 (c.65), s. 235, Sch. 10 Pt. IV
- ⁷ Added by Proceeds of Crime Act 2002 c. 29 Sch.11 para.11 (March 24, 2003 as SI 2003/333)
- ⁸ Words inserted by Proceeds of Crime Act 2002 c. 29 Sch.11 para.11 (March 24, 2003: as SSI 2003/210)
- ⁹ Words substituted by Constitutional Reform Act 2005 c. 4 Sch.11(1) para.1(2) (October 1, 2009)
- ¹⁰ Substituted by Drug Trafficking Act 1994 c. 37 Sch.1 para.6 (February 3, 1995)
- ¹¹ Words inserted by Criminal Justice (Scotland) Act 1995 c. 20 Sch.6(II) para.183(a) (March 31, 1996)
- ¹² Words substituted by Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 c. 40 Sch.4 para.42 (April 1, 1996 subject to transitional provisions, transitory modifications and savings specified in 1995 c.40 Sch.3)
- ¹³ Words inserted by Criminal Justice (Scotland) Act 1995 c. 20 Sch.6(II) para.183(b) (March 31, 1996)
- ¹⁴ Substituted by Courts and Legal Services Act 1990 c. 41 Sch.16(II) para.41 (October 14, 1991: represents law in force as at date shown)

Amendments Pending

Pt II s. 18(2)(f): words repealed by Policing and Crime Act 2009 c. 26 Sch. 7(8) para. 114(a)(i) (date to be appointed)

Pt II s. 18(2)(f): word substituted by Policing and Crime Act 2009 c. 26 Sch. 7(8) para. 114(a)(ii) (date to be appointed)

Pt II s. 18(2)(f): words repealed by Policing and Crime Act 2009 c. 26 Sch. 8(5) para. 1 (date to be appointed)

Pt II s. 18(2)(g): added by Policing and Crime Act 2009 c. 26 Sch. 7(8) para. 114(b) (date to be appointed)

Pt II s. 18(6)(a): words substituted by Family Law Act 1996 c. 27 Sch. 8(I) para. 31 (date to be appointed: commencement order)

Commencement

Pt II s. 18: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt II s. 18(1)-(8): United Kingdom

Law In Force

19.— Recognition of U.K. judgments in other parts of U.K.

(1) A judgment to which this section applies given in one part of the United Kingdom shall not be refused recognition in another part of the United Kingdom solely on the ground that, in relation to that judgment, the court which gave it was not a court of competent jurisdiction according to the rules of private international law in force in that other part.

(2) Subject to subsection (3), this section applies to any judgment to which section 18 applies.

(3) This section does not apply to—

- (a) the documents mentioned in paragraph (c) of the definition of “judgment” in section 18(2);
 - (b) the awards and orders mentioned in paragraphs (d) and (e) of that definition;
 - (c) the decrees and orders referred to in section 18(4).
-

Commencement

Pt II s. 19: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt II s. 19(1)-(3)(c): United Kingdom

PART III

JURISDICTION IN SCOTLAND

Law In Force

20.— Rules as to jurisdiction in Scotland.

(1) Subject to [the Regulation, to]¹ Parts I and II and to the following provisions of this Part, Schedule 8 has effect to determine in what circumstances a person may be sued in civil proceedings in the Court of Session or in a sheriff court.

- (2) Nothing in Schedule 8 affects the competence as respects subject-matter or value of the Court of Session or of the sheriff court.
- (3) Section 6 of the Sheriff Courts (Scotland) Act 1907 shall cease to have effect to the extent that it determines jurisdiction in relation to any matter to which Schedule 8 applies.
- (4) [...] ²
- (5) In determining any question as to the meaning or effect of any provision contained in Schedule 8 [...] ³ —
- (a) regard shall be had to any relevant principles laid down by the European Court in connection with Title II of the 1968 Convention [or Chapter II of the Regulation] ⁴ and to any relevant decision of that court as to the meaning or effect of any provision of that Title [or that Chapter] ⁵ ; and
 - (b) without prejudice to the generality of paragraph (a), the reports mentioned in section 3(3) may be considered and shall, so far as relevant, be given such weight as is appropriate in the circumstances.

Notes

- ¹ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(III) para.6(a) (March 1, 2002)
- ² Repealed by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(III) para.6(b) (March 1, 2002)
- ³ Words repealed by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(III) para.6(c)(i) (March 1, 2002)
- ⁴ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(III) para.6(c)(ii) (March 1, 2002)
- ⁵ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(III) para.6(c)(iii) (March 1, 2002)

Commencement

Pt III s. 20: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt III s. 20(1)-(5)(b): United Kingdom

Law In Force

21.— Continuance of certain existing jurisdictions.

- (1) Schedule 8 does not affect—
- (a) the operation of any enactment which confers jurisdiction on a Scottish court in respect of a specific subject-matter on specific grounds;
 - (b) without prejudice to the foregoing generality, the jurisdiction of any court in respect of any matter mentioned in Schedule 9.
- (2) Her Majesty may by Order in Council—
- (a) add to the list in Schedule 9 any description of proceedings; and
 - (b) remove from that list any description of proceedings (whether included in the list as originally enacted or added by virtue of this subsection).
- (3) An Order in Council under subsection (2) may—
- (a) make different provision for different descriptions of proceedings or for the same description of proceedings in different courts; and

(b) contain such transitional and other incidental provisions as appear to Her Majesty to be appropriate.

(4) An Order in Council under subsection (2) shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Commencement

Pt III s. 21: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt III s. 21(1)-(4): United Kingdom

Law In Force

22.— Supplementary provision.

(1) Nothing in Schedule 8 shall prevent a court from declining jurisdiction on the ground of *forum non conveniens*.

(2) Nothing in Schedule 8 affects the operation of any enactment or rule of law under which a court may decline to exercise jurisdiction because of the prorogation by parties of the jurisdiction of another court.

(3) For the avoidance of doubt, it is declared that nothing in Schedule 8 affects the *nobile officium* of the Court of Session.

(4) Where a court has jurisdiction in any proceedings by virtue of Schedule 8, that court shall also have jurisdiction to determine any matter which—

- (a) is ancillary or incidental to the proceedings; or
- (b) requires to be determined for the purposes of a decision in the proceedings.

Commencement

Pt III s. 22: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt III s. 22(1)-(4)(b): United Kingdom

Law In Force

23.— Savings and consequential amendments.

(1) Nothing in Schedule 8 shall affect—

- (a) the power of any court to vary or recall a maintenance order granted by the court;
- (b) the power of a sheriff court under section 22 of the Maintenance Orders Act 1950 (discharge and variation of maintenance orders registered in sheriff courts) to vary or discharge a maintenance order registered in that court under Part II of that Act; or
- (c) the power of a sheriff court under section 9 of the Maintenance Orders (Reciprocal Enforcement) Act 1972 (variation and revocation of maintenance orders registered in United

Kingdom courts) to vary or revoke a registered order within the meaning of Part I of that Act.

(2) [...]¹

Notes

¹ Provides for amendments of enactments specified in Sch.12 Pt.II

Commencement

Pt III s. 23: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt III s. 23(1)-(2): United Kingdom

PART IV

MISCELLANEOUS PROVISIONS

Provisions relating to jurisdiction

Law In Force

24.— Interim relief and protective measures in cases of doubtful jurisdiction.

(1) Any power of a court in England and Wales or Northern Ireland to grant interim relief pending trial or pending the determination of an appeal shall extend to a case where—

(a) the issue to be tried, or which is the subject of the appeal, relates to the jurisdiction of the court to entertain the proceedings; [...]¹

(b) the proceedings involve the reference of any matter to the European Court under the 1971 Protocol [; or]¹

[(c) the proceedings involve a reference of any matter relating to the Regulation [or the Lugano Convention]² to the European Court under Article 68 of the Treaty establishing the European Community.]¹

(2) Any power of a court in Scotland to grant protective measures pending the decision of any hearing shall apply to a case where—

(a) the subject of the proceedings includes a question as to the jurisdiction of the court to entertain them; [...]³

(b) the proceedings involve the reference of a matter to the European Court under the 1971 Protocol [; or]³

[(c) the proceedings involve a reference of any matter relating to the Regulation [or the Lugano Convention]⁴ to the European Court under Article 68 of the Treaty establishing the European Community.]³

(3) Subsections (1) and (2) shall not be construed as restricting any power to grant interim relief or protective measures which a court may have apart from this section.

Notes

- ¹ Added by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.9(a) (March 1, 2002)
- ² Words inserted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.16 (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)
- ³ Added by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.9(b) (March 1, 2002)
- ⁴ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.16 (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt IV s. 24(1)(a): August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Pt IV s. 24(1)(b): January 1, 1987 (SI 1986/2044 art. 2)

Pt IV s. 24(1)(c): Date not available

Pt IV s. 24(2)(a): August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Pt IV s. 24(2)(b): January 1, 1987 (SI 1986/2044 art. 2)

Pt IV s. 24(2)(c): Date not available

Pt IV s. 24(3): August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 24(1)-(3): United Kingdom

Law In Force

25.— Interim relief in England and Wales and Northern Ireland in the absence of substantive proceedings.

(1) The High Court in England and Wales or Northern Ireland shall have power to grant interim relief where—

(a) proceedings have been or are to be commenced in a [Brussels [Contracting State or a State bound by the Lugano Convention]²]¹ [or a Regulation State]³ other than the United Kingdom or in a part of the United Kingdom other than that in which the High Court in question exercises jurisdiction; and

[(b) they are or will be proceedings whose subject-matter is either within the scope of the Regulation as determined by Article 1 of the Regulation or within the scope of the Lugano Convention as determined by Article 1 of the Lugano Convention (whether or not the Regulation or the Lugano Convention has effect in relation to the proceedings).]⁴

(2) On an application for any interim relief under subsection (1) the court may refuse to grant that relief if, in the opinion of the court, the fact that the court has no jurisdiction apart from this section in relation to the subject-matter of the proceedings in question makes it inexpedient for the court to grant it.

(3) Her Majesty may by Order in Council extend the power to grant interim relief conferred by subsection (1) so as to make it exercisable in relation to proceedings of any of the following descriptions, namely—

- (a) proceedings commenced or to be commenced otherwise than in a [Brussels [Contracting State or a State bound by the Lugano Convention]²]¹ [or Regulation State]⁵ ;
- [(b) proceedings whose subject-matter is not within the scope either of the Regulation as determined by Article 1 of the Regulation or the Lugano Convention as determined by Article 1 of the Lugano Convention.]⁶
- (c) [...]⁷
- (4) An Order in Council under subsection (3)—
- (a) may confer power to grant only specified descriptions of interim relief;
- (b) may make different provision for different classes of proceedings, for proceedings pending in different countries or courts outside the United Kingdom or in different parts of the United Kingdom, and for other different circumstances; and
- (c) may impose conditions or restrictions on the exercise of any power conferred by the Order.
- (5) [...]⁷
- (6) Any Order in Council under subsection (3) shall be subject to annulment in pursuance of a resolution of either House or Parliament.
- (7) In this section “interim relief”, in relation to the High Court in England and Wales or Northern Ireland, means interim relief of any kind which that court has power to grant in proceedings relating to matters within its jurisdiction, other than—
- (a) a warrant for the arrest of property; or
- (b) provision for obtaining evidence.

Notes

- ¹ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.12(a) (May 1, 1992: represents law in force as at date shown)
- ² Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.17(2) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)
- ³ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.10(a)(i) (March 1, 2002)
- ⁴ Substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.17(3) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)
- ⁵ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.10(b)(i) (March 1, 2002)
- ⁶ Substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.17(4) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)
- ⁷ Repealed by Arbitration Act 1996 c. 23 Sch.4 para.1 (January 31, 1997 as SI 1996/3146)

Commencement

Pt IV s. 25: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt IV s. 25(1)-(7)(b): United Kingdom

Law In Force

26.— Security in Admiralty proceedings in England and Wales or Northern Ireland in case of stay, etc.

(1) Where in England and Wales or Northern Ireland a court stays or dismisses Admiralty proceedings on the ground that the dispute in question should be submitted [...] ¹ to the determination of the courts of another part of the United Kingdom or of an overseas country, the court may, if in those proceedings property has been arrested or bail or other security has been given to prevent or obtain release from arrest—

(a) order that the property arrested be retained as security for the satisfaction of any award or judgment which—

(i) is given in respect of the dispute in the [...] ¹ legal proceedings in favour of which those proceedings are stayed or dismissed; and

(ii) is enforceable in England and Wales or, as the case may be, in Northern Ireland; or

(b) order that the stay or dismissal of those proceedings be conditional on the provision of equivalent security for the satisfaction of any such award or judgment.

(2) Where a court makes an order under subsection (1), it may attach such conditions to the order as it thinks fit, in particular conditions with respect to the institution or prosecution of the relevant [...] ¹ legal proceedings.

(3) Subject to any provisions made by rules of court and to any necessary modifications, the same law and practice shall apply in relation to property retained in pursuance of an order made by a court under subsection (1) as would apply if it were held for the purposes of proceedings in that court.

Notes

¹ Words repealed by Arbitration Act 1996 c. 23 Sch.4 para.1 (January 31, 1997 as SI 1996/3146)

Commencement

Pt IV s. 26: November 1, 1984 (SI 1984/1553 art. 2)

Extent

Pt IV s. 26(1)-(3): United Kingdom

Law In Force

27.— Provisional and protective measures in Scotland in the absence of substantive proceedings.

(1) The Court of Session may, in any case to which this subsection applies—

(a) subject to subsection (2)(c), grant a warrant for the arrestment of any assets situated in Scotland;

(b) subject to subsection (2)(c), grant a warrant of inhibition over any property situated in Scotland; and

[(ba) subject to subsection (2)(c) below, grant a warrant for the interim attachment of corporeal moveable property situated in Scotland;] ¹

(c) grant interim interdict.

(2) Subsection (1) applies to any case in which—

(a) proceedings have been commenced but not concluded, or, in relation to paragraph (c) of that subsection, are to be commenced, in another [Brussels or Lugano Contracting State]² [, in another Regulation State]³ or in England and Wales or Northern Ireland;

[(b) the subject-matter of the proceedings is within the scope of the Regulation as determined by Article 1 of the Regulation; and]⁴

(c) in relation to paragraphs (a) [, (b) and (ba)]⁵ of subsection (1), such a warrant could competently have been granted in equivalent proceedings before a Scottish court;

but it shall not be necessary, in determining whether proceedings have been commenced for the purpose of paragraph (a) of this subsection, to show that any document has been served on or notice given to the defender.

(3) Her Majesty may by Order in Council confer on the Court of Session power to do anything mentioned in subsection (1) or in section 28 in relation to proceedings of any of the following descriptions, namely—

(a) proceedings commenced otherwise than in a [Brussels or Lugano Contracting State]⁶ [or Regulation State]⁷ ;

[(b) proceedings whose subject-matter is not within the scope of the Regulation as determined by Article 1 of the Regulation;]⁸

(c) arbitration proceedings;

(d) in relation to subsection (1)(c) or section 28, proceedings which are to be commenced otherwise than in a [Brussels or Lugano Contracting State]⁶ [or Regulation State]⁹ .

(4) An Order in Council under subsection (3)—

(a) may confer power to do only certain of the things mentioned in subsection (1) or in section 28;

(b) may make different provision for different classes of proceedings, for proceedings pending in different countries or courts outside the United Kingdom or in different parts of the United Kingdom, and for other different circumstances; and

(c) may impose conditions or restrictions on the exercise of any power conferred by the Order.

(5) Any Order in Council under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

¹ Added by Bankruptcy and Diligence etc. (Scotland) Act 2007 asp 3 (Scottish Act) Sch.5 para.12(a) (April 1, 2008)

² Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.12(b) (May 1, 1992: represents law in force as at date shown)

³ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.11(a) (March 1, 2002)

⁴ Substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.11(b) (March 1, 2002)

⁵ Words substituted by Bankruptcy and Diligence etc. (Scotland) Act 2007 asp 3 (Scottish Act) Sch.5 para.12(b) (April 1, 2008)

⁶ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.12(b) (May 1, 1992: represents law in force as at date shown)

⁷ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.11(c)(i) (March 1, 2002)

⁸ Substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.11(c)(ii) (March 1, 2002)

⁹ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.11(c)(iii) (March 1, 2002)

Commencement

Pt IV s. 27: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt IV s. 27(1)-(5): United Kingdom

Law In Force

28. Application of s. 1 of Administration of Justice (Scotland) Act 1972.

When any proceedings have been brought, or are likely to be brought, in another [Brussels or Lugano Contracting State]¹ [, in a Regulation State]² or in England and Wales or Northern Ireland in respect of any matter which is within the scope of the [Regulation]³ as determined in Article 1, the Court of Session shall have the like power to make an order under section 1 of the Administration of Justice (Scotland) Act 1972 [as amended by the Law Reform (Miscellaneous Provisions)(Scotland) Act 1985]⁴ as if the proceedings in question had been brought, or were likely to be brought, in that court.

Notes

- ¹ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.12(c) (May 1, 1992: represents law in force as at date shown)
- ² Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.12(a) (March 1, 2002)
- ³ Words substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.12(b) (March 1, 2002)
- ⁴ Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), s. 59, Sch. 2 para. 24

Commencement

Pt IV s. 28: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt IV s. 28: United Kingdom

Law In Force

29. Service of county court process outside Northern Ireland.

The County Court Rules Committee established by Article 46 of the County Courts (Northern Ireland) Order 1980 may make county court rules with respect to the service of process outside Northern Ireland and the conditions subject to which process may be so served; and accordingly in Article 48 of that Order (powers of Rules Committee), after paragraph (e) there shall be added—

“(f) the service of process outside Northern Ireland, and the conditions subject to which process may be so served.”.

Commencement

Pt IV s. 29: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 29: United Kingdom

Law In Force

30.— Proceedings in England and Wales or Northern Ireland for torts to immovable property.

(1) The jurisdiction of any court in England and Wales or Northern Ireland to entertain proceedings for trespass to, or any other tort affecting, immovable property shall extend to cases in which the property in question is situated outside that part of the United Kingdom unless the proceedings are principally concerned with a question of the title to, or the right to possession of, that property.

(2) Subsection (1) has effect subject to the 1968 Convention [and the Lugano Convention]¹ [and the Regulation]² and to the provisions set out in Schedule 4.

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.13 (May 1, 1992: represents law in force as at date shown)

² Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.13 (March 1, 2002)

Commencement

Pt IV s. 30: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 30(1)-(2): United Kingdom

Provisions relating to recognition and enforcement of judgments

Law In Force

31.— Overseas judgments given against states, etc.

(1) A judgment given by a court of an overseas country against a state other than the United Kingdom or the state to which that court belongs shall be recognised and enforced in the United Kingdom if, and only if—

- (a) it would be so recognised and enforced if it had not been given against a state; and
- (b) that court would have had jurisdiction in the matter if it had applied rules corresponding to those applicable to such matters in the United Kingdom in accordance with sections 2 to 11 of the State Immunity Act 1978.

(2) References in subsection (1) to a judgment given against a state include references to judgments of any of the following descriptions given in relation to a state—

- (a) judgments against the government, or a department of the government, of the state but not (except as mentioned in paragraph (c)) judgments against an entity which is distinct from the executive organs of government;
- (b) judgments against the sovereign or head of state in his public capacity;
- (c) judgments against any such separate entity as is mentioned in paragraph (a) given in proceedings relating to anything done by it in the exercise of the sovereign authority of the state.

(3) Nothing in subsection (1) shall affect the recognition or enforcement in the United Kingdom of a judgment to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 applies by virtue of section 4 of the Carriage of Goods by Road Act 1965, section 17(4) of the Nuclear Installations Act 1965, [section 166(4) of the Merchant Shipping Act 1995]¹, [regulation 8 of the Railways (Convention on International Carriage by Rail) Regulations 2005]² [...]³.

(4) Sections 12, 13 and 14(3) and (4) of the State Immunity Act 1978 (service of process and procedural privileges) shall apply to proceedings for the recognition or enforcement in the United Kingdom of a judgment given by a court of an overseas country (whether or not that judgment is within subsection (1) of this section) as they apply to other proceedings.

(5) In this section “state”, in the case of a federal state, includes any of its constituent territories.

Notes

¹ Words substituted by Merchant Shipping Act 1995 c. 21 Sch.13 para.66(a) (January 1, 1996)

² Words substituted by Railways (Convention on International Carriage by Rail) Regulations 2005/2092 Sch.3 para.2 (July 3, 2006: July 1, 2006 as specified on page 9004 of the London Gazette dated July 3, 2006)

³ Words repealed by Statute Law (Repeals) Act 2004 c. 14 Sch.1(14) para.1 (July 22, 2004)

Commencement

Pt IV s. 31: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 31(1)-(5): United Kingdom

Law In Force

32.— Overseas judgments given in proceedings brought in breach of agreement for settlement of disputes.

(1) Subject to the following provisions of this section, a judgment given by a court of an overseas country in any proceedings shall not be recognised or enforced in the United Kingdom if—

- (a) the bringing of those proceedings in that court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of that country; and
- (b) those proceedings were not brought in that court by, or with the agreement of, the person against whom the judgment was given; and
- (c) that person did not counter claim in the proceedings or otherwise submit to the jurisdiction of that court.

(2) Subsection (1) does not apply where the agreement referred to in paragraph (a) of the subsection was illegal, void or unenforceable or was incapable of being performed for reasons not attributable to the fault of the party bringing the proceedings in which the judgment was given.

(3) In determining whether a judgment given by a court of an overseas country should be recognised or enforced in the United Kingdom, a court in the United Kingdom shall not be bound by any decision of the overseas court relating to any of the matters mentioned in subsection (1) or (2).

(4) Nothing in subsection (1) shall affect the recognition or enforcement in the United Kingdom of—

(a) a judgment which is required to be recognised or enforced there under the 1968 Convention [or the Lugano Convention]¹ [or the Regulation]²;

(b) a judgment to which Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 applies by virtue of section 4 of the Carriage of Goods by Road Act 1965, section 17(4) of the Nuclear Installations Act 1965, [...] ³ [regulation 8 of the Railways (Convention on International Carriage by Rail) Regulations 2005]⁴ [...] ⁵ or [section 177(4) of the Merchant Shipping Act 1995]⁶.

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.14 (May 1, 1992: represents law in force as at date shown)

² Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.14 (March 1, 2002)

³ Words repealed by Merchant Shipping Act 1995 c. 21 Sch.12 para.1 (January 1, 1996 as specified in 1995 c.21 s.316(2) and Sch.14 para.5; not yet in force otherwise)

⁴ Words substituted by Railways (Convention on International Carriage by Rail) Regulations 2005/2092 Sch.3 para.2 (July 3, 2006: July 1, 2006 as specified on page 9004 of the London Gazette dated July 3, 2006)

⁵ Words repealed by Statute Law (Repeals) Act 2004 c. 14 Sch.1(14) para.1 (July 22, 2004)

⁶ Words substituted by Merchant Shipping Act 1995 c. 21 Sch.13 para.66(b)(ii) (January 1, 1996)

Commencement

Pt IV s. 32: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 32(1)-(4)(b): United Kingdom

Law In Force

33.— Certain steps not to amount to submission to jurisdiction of overseas court.

(1) For the purposes of determining whether a judgments given by a court of an overseas country should be recognised or enforced in England and Wales or Northern Ireland, the person against whom the judgment was given shall not be regarded as having submitted to the jurisdiction of the court by reason only of the fact that he appeared (conditionally or otherwise) in the proceedings for all or any one or more of the following purposes, namely—

(a) to contest the jurisdiction of the court;

(b) to ask the court to dismiss or stay the proceedings on the ground that the dispute in question should be submitted to arbitration or to the determination of the courts of another country;

(c) to protect, or obtain the release of, property seized or threatened with seizure in the proceedings.

(2) Nothing in this section shall affect the recognition or enforcement in England and Wales or Northern Ireland of a judgment which is required to be recognised or enforced there under the 1968 Convention [or the Lugano Convention]¹ [or the Regulation]².

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.15 (May 1, 1992: represents law in force as at date shown)

² Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(IV) para.15 (March 1, 2002)

Commencement

Pt IV s. 33: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 33(1)-(2): United Kingdom

Law In Force

34. Certain judgments a bar to further proceedings on the same cause of action.

No proceedings may be brought by a person in England and Wales or Northern Ireland on a cause of action in respect of which a judgment has been given in his favour in proceedings between the same parties, or their privies, in a court in another part of the United Kingdom or in a court of an overseas country, unless that judgment is not enforceable or entitled to recognition in England and Wales or, as the case may be, in Northern Ireland.

Commencement

Pt IV s. 34: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 34: United Kingdom

Law In Force

35.— Minor amendments relating to overseas judgments.

(1) The Foreign Judgments (Reciprocal Enforcement) Act 1933 shall have effect with the amendments specified in Schedule 10, being amendments whose main purpose is to enable Part I of that Act to be applied to judgments of courts other than superior courts, to judgments providing for interim payments and to certain arbitration awards.

(2) [...]¹

(3) [...]²

Notes

¹ Substitutes new s. 10 in Administration of Justice Act 1920 (c. 81)

² Inserts Administration of Justice Act 1920 (c. 81), s. 14(3)

Commencement

Pt IV s. 35(1): November 14, 1986 but January 1, 1987 as specified in SI 1986/2044 art.2 (SI 1986/1781 art. 2; SI 1986/2044 art. 2)

Pt IV s. 35(2): January 1, 1987 (SI 1986/2044 art. 2)

Pt IV s. 35(3): August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Pt IV s. 35(9): Date not available

Extent

Pt IV s. 35(1)-(3): United Kingdom

Law In Force

36.— Registration of maintenance orders in Northern Ireland.

(1) Where—

(a) a High Court order or a Court of Session order has been registered in the High Court of Justice in Northern Ireland (“the Northern Ireland High Court”) under Part II of the Maintenance Orders Act 1950; or

(b) a county court order, a magistrates' court order or a sheriff court order has been registered in a court of summary jurisdiction in Northern Ireland under that Part,

an application may be made to the original court for the registration of the order in, respectively, a court of summary jurisdiction in Northern Ireland or the Northern Ireland High Court.

(2) In subsection (1) “the original court”, in relation to an order, means the court by which the order was made.

(3) Section 2 (except subsection (6A)) and section 2A of the Maintenance Orders Act 1958 shall have effect for the purposes of an application under subsection (1), and subsections (2), (3), (4) and (4A) of section 5 of that Act shall have effect for the purposes of the cancellation of a registration made on such an application, as if—

(a) “registration” in those provisions included registration in the appropriate Northern Ireland court (“registered” being construed accordingly);

(b) any reference in those provisions to a High Court order to a magistrates' court order included, respectively, a Court of Session order or a sheriff court order; and

(c) any other reference in those provisions to the High Court or a magistrates' court included the Northern Ireland High Court or a court of summary jurisdiction in Northern Ireland.

(4) Where an order is registered in Northern Ireland under this section, Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966, except sections 11, 11A and 14(2) and (3), shall apply as if the order had been registered in accordance with the provisions of that Part.

(5) A court of summary jurisdiction in Northern Ireland shall have jurisdiction to hear a complaint by or against a person residing outside Northern Ireland for the discharge or variation of an order registered in Northern Ireland under this section; and where such a complaint is made against a person residing outside Northern Ireland, then, if he resides in England and Wales or Scotland, section 15 of the Maintenance Orders Act 1950 (which relates to the service of process on persons

residing in those countries) shall have effect in relation to the complaint as it has effect in relation to the proceedings therein mentioned.

(6) [...]¹

Notes

¹ Provides for amendments of enactments specified in Sch. 12 Pt. III

Commencement

Pt IV s. 36: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt IV s. 36(1)-(6): United Kingdom

Law In Force

37.— Minor amendments relating to maintenance orders.

(1) The enactments specified in Schedule 11 shall have effect with the amendments specified there, being amendments whose main purpose is as follows—

Part I—to extend certain enforcement provisions to lump sum maintenance orders;

Part II—to provide for the recovery of interest according to the law of the country of origin in the case of maintenance orders made in other jurisdictions and registered in the High Court;

Part III—to extend the Maintenance Orders (Reciprocal Enforcement) Act 1972 to cases where the payer under a maintenance order is not resident within the jurisdiction but has assets there.

(2) [...]¹

Notes

¹ Amends Protection of Trading Interests Act 1980 (c. 11), s. 7(1)

Commencement

Pt IV s. 37: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt IV s. 37(1)-(2): United Kingdom

Law In Force

38

(1) [...]¹

(2) [...]¹

(3) [...]²

Notes

- ¹ Amends Protection of Trading Interests Act 1980 (c. 11), s. 7(1)
² Inserts Protection of Trading Interests Act 1980 (c. 11), s. 7(1A)

Commencement

Pt IV s. 38: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 38(1)-(3): United Kingdom

Jurisdiction, and recognition and enforcement of judgments, as between United Kingdom and certain territories

Law In Force

39.— Application of provisions corresponding to 1968 Convention in relation to certain territories.

(1) Her Majesty may by Order in Council make provision corresponding to the provision made by the 1968 Convention as between the Contracting States to that Convention, with such modifications as appear to Her Majesty to be appropriate, for regulating, as between the United Kingdom and any of the territories mentioned in subsection (2), the jurisdiction of courts and the recognition and enforcement of judgments.

(2) The territories referred to in subsection (1) are—
 (a) the Isle of Man;
 (b) any of the Channel Islands;
 [(c) any colony.]¹

(3) An Order in Council under this section may contain such supplementary and incidental provisions as appear to Her Majesty to be necessary or expedient, including in particular provisions corresponding to or applying any of the provisions of Part I with such modifications as may be specified in the Order.

(4) Any Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Notes

- ¹ S.39(2)(c) substituted for s.39(2)(c) and (d) by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.10 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

Commencement

Pt IV s. 39: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt IV s. 39(1)-(4): United Kingdom

Law In Force

40.

- (1) [...] ¹
- (2) [...] ²
- (3) [...] ³

Notes

¹ Repealed by Legal Aid Act 1988 (c.34), s. 45, Sch. 6

² Inserts s. 15(4A) in Legal Aid Act 1967 (c. 43)

³ Inserts art. 22(4A) in S.I. 1981/228

Commencement

Pt IV s. 40: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt IV s. 40(1)-(3): United Kingdom

PART V

SUPPLEMENTARY AND GENERAL PROVISIONS

Domicile

Law In Force

41.— Domicile of individuals.

(1) Subject to Article 52 (which contains provisions for determining whether a party is domiciled in a Contracting State), the following provisions of this section determine, for the purposes of the 1968 Convention [, [...]] ¹ and this Act, whether an individual is domiciled in the United Kingdom or in a particular part of, or place in, the United Kingdom or in a state other than a Contracting State.

(2) An individual is domiciled in the United Kingdom if and only if—

- (a) he is resident in the United Kingdom; and
- (b) the nature and circumstances of this residence indicate that he has a substantial connection with the United Kingdom.

(3) Subject to subsection (5), an individual is domiciled in a particular part of the United Kingdom if and only if—

- (a) he is resident in that part; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that part.

(4) An individual is domiciled in a particular place in the United Kingdom if and only if he—

- (a) is domiciled in the part of the United Kingdom in which that place is situated; and

(b) is resident in that place.

(5) An individual who is domiciled in the United Kingdom but in whose case the requirements of subsection (3)(b) are not satisfied in relation to any particular part of the United Kingdom shall be treated as domiciled in the part of the United Kingdom in which he is resident.

(6) In the case of an individual who—

- (a) is resident in the United Kingdom, or in a particular part of the United Kingdom; and
- (b) has been so resident for the last three months or more,

the requirements of subsection (2)(b) or, as the case may be, subsection (3)(b) shall be presumed to be fulfilled unless the contrary is proved.

(7) An individual is domiciled in a state other than a Contracting State if and only if—

- (a) he is resident in that state; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that state.

Notes

- ¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.16 (May 1, 1992: represents law in force as at date shown)
- ² Repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.18(1) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt V s. 41: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 41(1)-(7)(b): United Kingdom

Law In Force

[41A.— Domicile of individuals for the purposes of the Lugano Convention

(1) Subject to Article 59 of the Lugano Convention (which contains provisions for determining whether a party is domiciled in a State bound by the Lugano Convention), the following provisions of this section determine, for the purposes of the Lugano Convention, whether an individual is domiciled in the United Kingdom or in a particular part of, or place in, the United Kingdom or in a state other than a State bound by the Lugano Convention.

(2) An individual is domiciled in the United Kingdom if and only if—

- (a) he is resident in the United Kingdom; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with the United Kingdom.

(3) Subject to subsection (5), an individual is domiciled in a particular part of the United Kingdom if and only if—

- (a) he is resident in that part; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that part.

(4) An individual is domiciled in a particular place in the United Kingdom if and only if he—

- (a) is domiciled in the part of the United Kingdom in which that place is situated; and
- (b) is resident in that place.

(5) An individual who is domiciled in the United Kingdom but in whose case the requirements of subsection (3)(b) are not satisfied in relation to any particular part of the United Kingdom shall be treated as domiciled in the part of the United Kingdom in which he is resident.

(6) In the case of an individual who—

- (a) is resident in the United Kingdom, or in a particular part of the United Kingdom; and
- (b) has been so resident for the last three months or more,

the requirements of subsection (2)(b) or, as the case may be, subsection (3)(b) shall be presumed to be fulfilled unless the contrary is proved.

(7) An individual is domiciled in a state other than a State bound by the Lugano Convention if and only if—

- (a) he is resident in that state; and
- (b) the nature and circumstances of his residence indicate that he has a substantial connection with that state.

]¹

Notes

- ¹ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.18(2) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Extent

Pt V s. 41A(1)-(7)(b): United Kingdom

Law In Force

42.— Domicile and seat of corporation or association.

(1) For the purposes of this Act the seat of a corporation or association (as determined by this section) shall be treated as its domicile.

(2) The following provisions of this section determine where a corporation or association has its seat—

- (a) for the purpose of Article 53 (which for the purposes of the 1968 Convention [...] ¹ equates the domicile of such a body with its seat); and
- (b) for the purposes of this Act other than the provisions mentioned in section 43(1)(b) and
- (c).

(3) A corporation or association has its seat in the United Kingdom, if and only if—

- (a) it was incorporated or formed under the law of a part of the United Kingdom and has its registered office or some other official address in the United Kingdom; or
- (b) its central management and control is exercised in the United Kingdom.

(4) A corporation or association has its seat in a particular part of the United Kingdom if and only if it has its seat in the United Kingdom and—

- (a) it has its registered office or some other official address in that part; or
- (b) its central management and control is exercised in that part; or
- (c) it has a place of business in that part.

- (5) A corporation or association has its seat in a particular place in the United Kingdom if and only if it has its seat in the part of the United Kingdom in which that place is situated and—
- (a) it has its registered office or some other official address in that place; or
 - (b) its central management and control is exercised in that place; or
 - (c) it has a place of business in that place.
- (6) Subject to subsection (7), a corporation or association has its seat in a state other than the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of that state and has its registered office or some other official address there; or
 - (b) its central management and control is exercised in that state.
- (7) A corporation or association shall not be regarded as having its seat in a Contracting State other than the United Kingdom if it is shown that the courts of that state would not regard it as having its seat there.
- (8) In this section—
- “business” includes any activity carried on by a corporation or association, and “place of business” shall be construed accordingly;
- “official address”, in relation to a corporation or association, means an address which it is required by law to register, notify or maintain for the purpose of receiving notices or other communications.

Notes

- ¹ Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.19 (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt V s. 42: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 42(1)-(8) definition of "official address": United Kingdom

Law In Force

43.— Seat of corporation or association for purposes of Article 16(2) and related provisions.

- (1) The following provisions of this section determine where a corporation or association has its seat for the purposes of—
- (a) Article 16(2) [of the 1968 Convention [...]]¹ (which confers exclusive jurisdiction over proceedings relating to the formation or dissolution of such bodies, or to the decisions of their organs);
 - (b) [rules 4 and 11(b)]³ in Schedule 4; and
 - (c) [rules 2(1) and 5(1)(b) in Schedule 8.]⁴
- (2) A corporation or association has its seat in the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of a part of the United Kingdom; or
 - (b) its central management and control is exercised in the United Kingdom.

- (3) A corporation or association has its seat in a particular part of the United Kingdom if and only if it has its seat in the United Kingdom and—
- (a) subject to subsection (5), it was incorporated or formed under the law of that part; or
 - (b) being incorporated or formed under the law of a state other than the United Kingdom, its central management and control is exercised in that part.
- (4) A corporation or association has its seat in a particular place in Scotland if and only if it has its seat in Scotland and—
- (a) it has its registered office or some other official address in that place; or
 - (b) it has no registered office or other official address in Scotland, but its central management and control is exercised in that place.
- (5) A corporation or association incorporated or formed under—
- (a) an enactment forming part of the law of more than one part of the United Kingdom; or
 - (b) an instrument having effect in the domestic law of more than one part of the United Kingdom,
- shall, if it has a registered office, be taken to have its seat in the part of the United Kingdom in which that office is situated, and not in any other part of the United Kingdom.
- (6) Subject to subsection (7), a corporation or association has its seat in a Contracting State other than the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of that state; or
 - (b) its central management and control is exercised in that state.
- (7) A corporation or association shall not be regarded as having its seat in a Contracting State other than the United Kingdom if—
- (a) it has its seat in the United Kingdom by virtue of subsection (2)(a); or
 - (b) it is shown that the courts of that other state would not regard it for the purposes of Article 16(2) as having its seat there.
- (8) In this section “official address” has the same meaning as in section 42.

Notes

- ¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.18 (May 1, 1992: represents law in force as at date shown)
- ² Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.20(1) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)
- ³ Words substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.16(a) (March 1, 2002)
- ⁴ Words substituted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.16(b) (March 1, 2002)

Commencement

Pt V s. 43: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 43(1)-(8): United Kingdom

Law In Force

[43A.— Seat of companies or other legal persons, or of associations, for the purposes of Article 22(2) of the Lugano Convention

- (1) The following provisions of this section determine where a company, or other legal person or an association of natural or legal persons, has its seat for the purposes of Article 22(2) of the Lugano Convention (which confers exclusive jurisdiction over proceedings relating to the validity of the constitution, the nullity or the dissolution of such bodies, or to the validity of the decisions of their organs).
- (2) A company, legal person or association has its seat in the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of a part of the United Kingdom; or
 - (b) its central management and control is exercised in the United Kingdom.
- (3) Subject to subsection (4), a company, legal person or association has its seat in a State bound by the Lugano Convention other than the United Kingdom if and only if—
- (a) it was incorporated or formed under the law of that state; or
 - (b) its central management and control is exercised in that state.
- (4) A company, legal person or association shall not be regarded as having its seat in a State bound by the Lugano Convention other than the United Kingdom if—
- (a) it has its seat in the United Kingdom by virtue of subsection (2)(a); or
 - (b) it is shown that the courts of that other state would not regard it for the purposes of Article 22(2) as having its seat there.

] ¹

Notes

- ¹ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.20(2) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Extent

Pt V s. 43A(1)-(4)(b): United Kingdom

Law In Force

44.— Persons deemed to be domiciled in the United Kingdom for certain purposes.

- (1) This section applies to—
- (a) proceedings within Section 3 of Title II of the 1968 Convention [...] ¹ (insurance contracts), and
 - (b) proceedings within Section 4 of [Title II of the 1968 Convention] ² (consumer contracts).
- (2) A person who, for the purposes of proceedings to which this section applies arising out of the operations of a branch, agency or other establishment in the United Kingdom, is deemed for the purposes of the 1968 Convention [...] ³ to be domiciled in the United Kingdom by virtue of—
- (a) Article 8, second paragraph (insurers); or
 - (b) Article 13, second paragraph (suppliers of goods, services or credit to consumers),

shall, for the purposes of those proceedings, be treated for the purposes of this Act as so domiciled and as domiciled in the part of the United Kingdom in which the branch, agency or establishment in question is situated.

Notes

- ¹ Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.21(2)(a) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)
- ² Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.21(2)(b) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)
- ³ Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.21(3) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt V s. 44: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 44(1)-(2)(b): United Kingdom

Law In Force

[44A.— Persons deemed to be domiciled in the United Kingdom for certain purposes of the Lugano Convention

(1) This section applies to—

- (a) proceedings within Section 3 of Title II of the Lugano Convention (insurance contracts);
- (b) proceedings within Section 4 of Title II of the Lugano Convention (consumer contracts);
- and
- (c) proceedings within Section 5 of Title II of the Lugano Convention (employment contracts).

(2) A person who, for the purposes of proceedings to which this section applies arising out of the operations of a branch, agency or other establishment in the United Kingdom, is deemed for the purposes of the Lugano Convention to be domiciled in the United Kingdom by virtue of —

- (a) Article 9(2) (insurers); or
- (b) Article 15(2) (suppliers of goods, services or credit to consumers); or
- (c) Article 18(2) (employers),

shall, for the purposes of those proceedings, be treated as so domiciled and as domiciled in the part of the United Kingdom in which the branch, agency or establishment in question is situated.

] ¹

Notes

- ¹ Added by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.22 (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Extent

Pt V s. 44A(1)-(2)(c): United Kingdom

Law In Force

45.— Domicile of trusts.

- (1) The following provisions of this section determine, for the purposes of the 1968 Convention [, the Lugano Convention]¹ and this Act, where a trust is domiciled.
- (2) A trust is domiciled in the United Kingdom if and only if it is by virtue of subsection (3) domiciled in a part of the United Kingdom.
- (3) A trust is domiciled in a part of the United Kingdom if and only if the system of law of that part is the system of law with which the trust has its closest and most real connection.

Notes

- ¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.20 (May 1, 1992: represents law in force as at date shown)

Commencement

Pt V s. 45: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 45(1)-(3): United Kingdom

Law In Force

46.— Domicile and seat of the Crown.

- (1) For the purposes of this Act the seat of the Crown (as determined by this section) shall be treated as its domicile.
- (2) The following provisions of this section determine where the Crown has its seat—
- (a) for the purposes of the 1968 Convention [(in which]¹ Article 53 equates the domicile of a legal person with its seat); and
 - (b) for the purposes of this Act.
- (3) Subject to the provisions of any Order in Council for the time being in force under subsection (4)—
- (a) the Crown in right of Her Majesty's government in the United Kingdom has its seat in every part of, and every place in, the United Kingdom; and
 - [(aa) the Crown in right of the Scottish Administration has its seat in, and in every place in, Scotland,]²
 - (b) the Crown in right of Her Majesty's government in Northern Ireland has its seat in, and in every place in, Northern Ireland.
- (4) Her Majesty may by Order in Council provide that, in the case of proceedings of any specified description against the Crown in right of Her Majesty's government in the United Kingdom, the Crown shall be treated for the purposes of the 1968 Convention [, [...]]⁴³ and this Act as having its seat in, and in every place in, a specified part of the United Kingdom and not in any other part of the United Kingdom.

(5) An Order in Council under subsection (4) may frame a description of proceedings in any way, and in particular may do so by reference to the government department or officer of the Crown against which or against whom they fall to be instituted.

(6) Any Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Nothing in this section applies to the Crown otherwise than in right of Her Majesty's government in the United Kingdom [,the Scottish Administration]⁵ or Her Majesty's government in Northern Ireland.

Notes

¹ Words substituted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.23(2) (January 1, 2010: substitution has effect subject to savings specified in SI 2009/3131 reg.48)

² Added by Scotland Act 1998 c. 46 Sch.8 para.18(2) (May 6, 1999)

³ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.21(2) (May 1, 1992: represents law in force as at date shown)

⁴ Words repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.23(3) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

⁵ Words inserted by Scotland Act 1998 c. 46 Sch.8 para.18(3) (May 6, 1999)

Commencement

Pt V s. 46: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 46(1)-(7): United Kingdom

Other supplementary provisions

Law In Force

47.— Modifications occasioned by decisions of European Court as to meaning or effect of Conventions.

(1) Her Majesty may by Order in Council—

(a) make such provision as Her Majesty considers appropriate for the purpose of bringing the law of any part of the United Kingdom into accord with the [Brussels Conventions]¹ as affected by any principle laid down by the European Court in connection with the [Brussels Conventions]¹ or by any decision of that court as to the meaning or effect of any provision of the [Brussels Conventions]¹; or

(b) make such modifications of Schedule 4 or Schedule 8, or of any other statutory provision affected by any provision of either of those Schedules, as Her Majesty considers appropriate in view of any principle laid down by the European Court in connection with Title II of the 1968 Convention or of any decision of that court as to the meaning or effect of any provision of that Title.

(2) The provision which may be made by virtue of paragraph (a) of subsection (1) includes such modifications of this Act or any other statutory provision, whenever passed or made, as Her Majesty considers appropriate for the purpose mentioned in that paragraph.

(3) The modifications which may be made by virtue of paragraph (b) of subsection (1) include modifications designed to produce divergence between any provision of Schedule 4 or Schedule 8 and a corresponding provision of Title II of the 1968 Convention as affected by any such principle or decision as is mentioned in that paragraph.

(4) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

Notes

¹ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.22 (May 1, 1992: represents law in force as at date shown)

Commencement

Pt V s. 47: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 47(1)-(4): United Kingdom

Law In Force

48.— Matters for which rules of court may provide.

(1) Rules of court may make provision for regulating the procedure to be followed in any court in connection with any provision of this Act [the Lugano Convention or the Brussels Conventions]¹ [or the Regulation]² .

(2) Rules of court may make provision as to the manner in which and the conditions subject to which a certificate or judgment registered in any court under any provision of this Act [or the Regulation]³ may be enforced, including provision for enabling the court or, in Northern Ireland the Enforcement of Judgments Office, subject to any conditions specified in the rules, to give directions about such matters.

(3) Without prejudice to the generality of subsection (1) and (2), the power to make rules of court for magistrates' courts, and in Northern Ireland the power to make Judgment Enforcement Rules, shall include power to make such provision as the rule-making authority considers necessary or expedient for the purposes of the provisions of [the Lugano Convention , the Brussels Conventions]⁴ [, the Regulation]⁵ and this Act relating to maintenance proceedings and the recognition and enforcement of maintenance orders, and shall in particular include power to make provision as to any of the following matters—

(a) authorising the service in another Contracting State [or Regulation State]⁶ of process issued by or for the purposes of a magistrates' court and the service and execution in England and Wales or Northern Ireland of process issued in another Contracting State [or Regulation State]⁶ ;

(b) requesting courts in other parts of the United Kingdom or in other Contracting States [or Regulation States]⁷ to take evidence there for the purposes of proceedings in England and Wales or Northern Ireland;

(c) the taking of evidence in England and Wales or Northern Ireland in response to similar requests received from such courts;

- (d) the circumstances in which and the conditions subject to which any powers conferred under paragraphs (a) to (c) are to be exercised;
- (e) the admission in evidence, subject to such conditions as may be prescribed in the rules, of statements contained in documents purporting to be made or authenticated by a court in another part of the United Kingdom or in another Contracting State [or Regulation State]⁸, or by a judge or official of such a court, which purport—
- (i) to set out or summarise evidence given in proceedings in that court or to be documents received in evidence in such proceedings or copies of such documents;
 - or
 - (ii) to set out or summarise evidence taken for the purposes of proceedings in England and Wales or Northern Ireland, whether or not, in response to any such request as is mentioned in paragraph (b); or
 - (iii) to record information relating to the payments made under an order of that court;
- (f) the circumstances and manner in which a magistrates' court may or must vary or revoke a maintenance order registered in that court, cancel the registration of, or refrain from enforcing, such an order or transmit such an order for enforcement in another part of the United Kingdom;
- (g) the cases and manner in which courts in other parts of the United Kingdom or in other Contracting States [or Regulation States]⁹ are to be informed of orders made, or other things done, by or for the purposes of a magistrates' court;
- (h) the circumstances and manner in which a magistrates' court may communicate for other purposes with such courts;
- (i) the giving of notice of such matters as may be prescribed in the rules to such persons as may be so prescribed and the manner in which such notice is to be given.

(4) Nothing in this section shall be taken as derogating from the generality of any power to make rules of court conferred by any other enactment.

Notes

- ¹ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.23(a) (May 1, 1992: represents law in force as at date shown)
- ² Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.17(a) (January 25, 2002)
- ³ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.17(b) (January 25, 2002)
- ⁴ Words substituted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.23(b) (May 1, 1992: represents law in force as at date shown)
- ⁵ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.17(c)(i) (January 25, 2002)
- ⁶ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.17(c)(ii) (January 25, 2002)
- ⁷ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.17(c)(iii) (January 25, 2002)
- ⁸ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.17(c)(iv) (January 25, 2002)
- ⁹ Words inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.17(c)(v) (January 25, 2002)

Commencement

Pt V s. 48: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Pt V s. 48(1)-(4): United Kingdom

Law In Force

49. Saving for powers to stay, sist, strike out or dismiss proceedings.

Nothing in this Act shall prevent any court in the United Kingdom from staying, sisting, striking out or dismissing any proceedings before it, on the ground of *forum non conveniens* or otherwise, where to do so is not inconsistent with the 1968 Convention [or, as the case may be, the Lugano Convention]¹.

Notes

¹ Words inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.24 (May 1, 1992: represents law in force as at date shown)

Commencement

Pt V s. 49: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt V s. 49: United Kingdom

General

Law In Force

50. Interpretation: general.

In this Act, unless the context otherwise requires—

[“the Accession Convention”, [“the 1982 Accession Convention” and “the 1989 Accession Convention” and “the 1996 Accession Convention”]² have the meaning given by section 1(1);]¹

“Article” and references to sub-divisions of numbered Articles are to be construed in accordance with section 1(2)(b);

“association” means an unincorporated body of persons;

[“Brussels Contracting State” has the meaning given by section 1(3);]³

[“the Brussels Conventions” has the meaning given by section 1(1);]³

“Contracting State” has the meaning given by section 1(3);

“the 1968 Convention” has the meaning given by section 1(1), and references to that Convention and to provisions of it are to be construed in accordance with section 1(2)(a);

[...]⁴

“corporation” means a body corporate, and includes a partnership subsisting under the law of Scotland;

“court”, without more, includes a tribunal;

“court of law”, in relation to the United Kingdom, means any of the following courts, namely—

[(a) the Supreme Court,]⁵

(b) in England and Wales or Northern Ireland, the Court of Appeal, the High Court, the Crown Court, a county court and a magistrates' court,

(c) in Scotland, the Court of Session and a sheriff court

;

“the Crown” is to be construed in accordance with section 51(2);

“enactment” includes an enactment comprised in Northern Ireland legislation;
 “judgment”, subject to sections 15(1) and 18(2) and to paragraph 1 of Schedules 6 and 7,
 means any judgment or order (by whatever name called) given or made by a court in any
 civil proceedings;

[...]⁶

“magistrates' court”, in relation to Northern Ireland, means a court of summary jurisdiction;

“modifications” includes additions, omissions and alterations;

“overseas country” means any country or territory outside the United Kingdom;

“part of the United Kingdom” means England and Wales, Scotland or Northern Ireland;

“the 1971 Protocol” has the meaning given by section 1(1), and references to that Protocol
 and to provisions of it are to be construed in accordance with section 1(2)(a);

[“the Regulation” has the meaning given by section 1(1);

“Regulation State” has the meaning given by section 1(3);]⁷

“rules of court”, in relation to any court, means rules, orders or regulations made by the
 authority having power to make rules, orders or regulations regulating the procedure of that
 court, and includes—

(a) in Scotland, Acts of Sederunt;

(b) in Northern Ireland, Judgment Enforcement Rules;

[“State bound by the Lugano Convention” has the meaning given by section 1(3);]⁸

“statutory provision” means any provisions contained in an Act, or in any Northern Ireland
 legislation, or in—

(a) subordinate legislation (as defined in section 21(1) of the Interpretation Act
 1978); or

(b) any instrument of a legislative character made under any Northern Ireland
 legislation;

“tribunal” —

(a) means a tribunal of any description other than a court of law;

(b) in relation to an overseas country, includes, as regards matters relating to
 maintenance within the meaning of the 1968 Convention, any authority having
 power to give, enforce, vary or revoke a maintenance order.

Notes

¹ Definition substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.9 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

² Words substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Pt I art.7 (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)

³ Definition inserted by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.25 (May 1, 1992: represents law in force as at date shown)

⁴ Definition repealed by Civil Jurisdiction and Judgments Act 1991 c. 12 Sch.2 para.25 (May 1, 1992: represents law in force as at date shown)

⁵ Substituted by Constitutional Reform Act 2005 c. 4 Sch.17(2) para.23 (October 1, 2009)

⁶ Definition repealed by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.24(a) (January 1, 2010: repeal has effect subject to savings specified in SI 2009/3131 reg.48)

⁷ Definitions inserted by Civil Jurisdiction and Judgments Order 2001/3929 Sch.2(V) para.18 (March 1, 2002)

⁸ Definition inserted by Civil Jurisdiction and Judgments Regulations 2009/3131 reg.24(b) (January 1, 2010: insertion has effect subject to savings specified in SI 2009/3131 reg.48)

Commencement

Pt V s. 50: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt V s. 50 definition of "the Accession Convention"- definition of "tribunal" (b): United Kingdom

Law In Force

51.— Application to Crown.

(1) This Act binds the Court.

(2) In this section and elsewhere in this Act references to the Crown do not include references to Her Majesty in Her private capacity or to Her Majesty in right of Her Duchy of Lancaster or to the Duke of Cornwall.

Commencement

Pt V s. 51: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt V s. 51(1)-(2): United Kingdom

Law In Force

52.— Extent.

(1) This Act extends to Northern Ireland.

(2) Without prejudice to the power conferred by section 39, Her Majesty may by Order in Council direct that all or any of the provisions of this Act apart from that section shall extend, subject to such modifications as may be specified in the Order, to any of the following territories, that is to say—

- (a) the Isle of Man;
 - (b) any of the Channel Islands;
 - [(c) any colony.]¹
-

Notes

¹ S.52(2)(c) substituted for s.52(2)(c) and (d) by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 art.11 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

Commencement

Pt V s. 52: August 24, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt V s. 52(1)-(2)(d): United Kingdom

Law In Force**53.— Commencement, transitional provisions and savings.**

(1) This Act shall come into force in accordance with the provisions of Part I of Schedule 13.

(2) The transitional provisions and savings contained in Part II of that Schedule shall have effect in relation to the commencement of the provisions of this Act mentioned in that Part.

¹

Notes

¹ Power of appointment conferred by s. 53(1) fully exercised: S.I. 1984/1553, 1986/1781, 2044

Commencement

Pt V s. 53(1): July 13, 1982 (1982 c. 27 Sch. 13(I) para. 1)

Pt V s. 53(2): July 13, 1982 in relation to 1982 c.27 Sch.13 Pt I; August 24, 1982 for provisions specified in 1982 c.27 Sch.13 Pt I para.2; November 1, 1984 for the provision specified in SI 1984/1553 art.2; January 1, 1987 otherwise (SI 1984/1553 art. 2; SI 1986/2044 art. 2; 1982 c. 27 Sch. 13(I) para. 1, Sch. 13(I) para. 2)

Extent

Pt V s. 53(1)-(2): United Kingdom

 Law In Force**54. [...] ¹**

Notes

¹ Repeals enactments specified in Sch. 14

Commencement

Pt V s. 54: August 24, 1982 for repeals specified in 1982 c.27 Sch.13 Pt I para.2; January 1, 1987 otherwise (SI 1986/2044 art. 2; 1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 2)

Extent

Pt V s. 54: United Kingdom

 Law In Force**55.**

This Act may be cited as the Civil Jurisdiction and Judgments Short title. Act 1982.

Commencement

Pt V s. 55: July 13, 1982 (1982 c. 27 Pt V s. 53(1), Sch. 13(I) para. 1)

Extent

Pt V s. 55: United Kingdom

[SCHEDULE 1

TEXT OF 1968 CONVENTION, AS AMENDED

Section 2(2)

]¹

Notes

¹ Sch. 1 substituted by S.I. 1989/1346, art. 9(1), Sch. 1

Law In Force

[

**CONVENTION ON JURISDICTION AND THE ENFORCEMENT OF JUDGEMENTS IN
CIVIL AND COMMERCIAL MATTERS PREAMBLE THE HIGH CONTRACTING
PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC
COMMUNITY,**

Desiring to implement the provisions of Article 220 of that Treaty by virtue of which they undertook to secure the simplification of formalities governing the reciprocal recognition and enforcement of judgments of courts or tribunals;

Anxious to strengthen in the Community the legal protection of persons therein established;

Considering that it is necessary for this purpose to determine the international jurisdiction of their courts, to facilitate recognition and to introduce an expeditious procedure for securing the enforcement of judgments, authentic instruments and court settlements;

Have decided to conclude this Convention and to this end have designated as their Plenipotentiaries;
(Designations of Plenipotentiaries of the original six Contracting States)

WHO, meeting within the Council, having exchanged their Full Powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

TITLE 1**SCOPE**

Law In Force

Article 1

This Convention shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.

The Convention shall not apply to—

1. The status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills and succession.
2. Bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings.
3. Social security.
4. Arbitration.

TITLE II

JURISDICTION

SECTION 1 GENERAL PROVISIONS

Law In Force

Article 2

Subject to the provisions of this Convention, persons domiciled in a Contracting State shall, whatever their nationality, be sued in the courts of that State.

Persons who are not nationals of the State in which they are domiciled shall be governed by the rules of jurisdiction applicable to nationals of that State.

Law In Force

Article 3

Persons domiciled in a Contracting State may be sued in the courts of another Contracting State only by virtue of the rules set out in Sections 2 to 6 of this Title.

In particular the following provisions shall not be applicable as against them—

—in Belgium: Article 15 of the civil code (Code civil-Burgerlijk Wetboek) and Article 638 of the judicial code (Code judiciaire-Gerechtelijk Wetboek),

in Denmark: Article 246 (2) and (3) of the law on civil procedure (Lov om retsens pleje),

in the Federal Republic of Germany: Article 23 of the code of civil procedure (Zivilprozessordnung)

in Greece, Article 40 of the code of civil procedure (*Κωδικαζ Πολιτικηζ Δικονομιαζ*),

in France: Articles 14 and 15 of the civil code (Code civil),

in Ireland: the rules which enable jurisdiction to be founded on the document instituting the proceedings having been served on the defendant during his temporary presence in Ireland,

in Italy: Articles 2 and 4, nos 1 and 2 of the code of civil procedure (Codice di procedura civile),

in Luxembourg: Articles 14 and 15 of the civil code (Code civil),

in the Netherlands: Articles 126(3) and 127 of the code of civil procedure (Wetboek van Burgerlijke Rechtsvordering), - in Austria: Article 99 of the Law on Court Jurisdiction (Jurisdiktionsnorm),

in Portugal: Article 65(1)(c), article 65(2) and article 65A(c) of the code of civil procedure (Código de Processo Civil) and Article 11 of the code of labour procedure (Código de Processo de Trabalho),

in Finland: the second, third and fourth sentences of the first paragraph of Section 1 of Chapter 10 of the Code of Judicial Procedure (oikeudenkäymiskaari/rättegångsbalken),

in Sweden: the first sentence of the first paragraph of Section 3 of Chapter 10 of the Code of Judicial Procedure (rättegångsbalken),

in the United Kingdom: the rules which enable jurisdiction to be founded on:

- (a) the document instituting the proceedings having been served on the defendant during his temporary presence in the United Kingdom; or

- (b) the presence within the United Kingdom of property belonging to the defendant;
- or
- (c) the seizure by the plaintiff of property situated in the United Kingdom.

Law In Force

Article 4

If the defendant is not domiciled in a Contracting State, the jurisdiction of the courts of each Contracting State shall, subject to the provisions of Article 16, be determined by the law of that State.

As against such a defendant, any person domiciled in a Contracting State may, whatever his nationality, avail himself in that State of the rules of jurisdiction there in force, and in particular those specified in the second paragraph of Article 3, in the same way as the nationals of that State.

SECTION 2 SPECIAL JURISDICTION

Law In Force

Article 5

A person domiciled in a Contracting State may, in another Contracting State, be sued—

1. In matters relating to a contract, in the courts for the place of performance of the obligation in question; in matters relating to individual contracts of employment, this place is that where the employee habitually carries out his work, or if the employee does not habitually carry out his work in any one country, the employer may also be sued in the courts for the place where the business which engaged the employee was or is now situated.
2. In matters relating to maintenance, in the courts for the place where the maintenance creditor is domiciled or habitually resident or, if the matter is ancillary to proceedings concerning the status of a person, in the court which, according to its own law, has jurisdiction to entertain those proceedings, unless that jurisdiction is based solely on the nationality of one of the parties.
3. In matters relating to tort, delict or quasi-delict, in the courts for the place where the harmful event occurred.
4. As regards a civil claim for damages or restitution which is based on an act giving rise to criminal proceedings, in the court seised of those proceedings, to the extent that that court has jurisdiction under its own law to entertain civil proceedings.
5. As regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency or other establishment is situated.
6. As settlor, trustee or beneficiary of a trust created by the operation of a statute, or by a written instrument, or created orally and evidenced in writing, in the courts of the Contracting State in which the trust is domiciled.
7. As regards a dispute concerning the payment of remuneration claimed in respect of the salvage of cargo or freight, in the court under the authority of which the cargo or freight in question—
 - (a) has been arrested to secure such payment, or
 - (b) could have been so arrested, but bail or other security has been given;

provided that this provision shall apply only if it is claimed that the defendant has an interest in the cargo or freight or had such an interest at the time of salvage.

Law In Force

Article 6

A person domiciled in a Contracting State may also be sued—

1. Where he is one of a number of defendants, in the courts for the place where any one of them is domiciled.
2. As a third party in an action on a warranty or guarantee or in any other third party proceedings, in the court seised of the original proceedings, unless these were instituted solely with the object of removing him from the jurisdiction of the court which would be competent in his case.
3. On a counter-claim arising from the same contract or facts on which the original claim was based, in the court in which the original claim is pending.
4. In matters relating to a contract, if the action may be combined with an action against the same defendant in matters relating to rights in rem in immovable property, in the court of the Contracting State in which the property is situated.

Law In Force

Article 6a

Where by virtue of this Convention a court of a Contracting State has jurisdiction in actions relating to liability from the use or operation of a ship, that court, or any other court substituted for this purpose by the internal law of that State, shall also have jurisdiction over claims for limitation of such liability.

SECTION 3 JURISDICTION IN MATTERS RELATING TO INSURANCE

Law In Force

Article 7

In matters relating to insurance, jurisdiction shall be determined by this Section, without prejudice to the provisions of Articles 4 and 5 point 5.

Law In Force

Article 8

An insurer domiciled in a Contracting State may be sued—

1. in the courts of the State where he is domiciled, or
2. in another Contracting State, in the courts for the place where the policy-holder is domiciled, or
3. if he is a co-insurer, in the courts of a Contracting State in which proceedings are brought against the leading insurer.

An insurer who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

Law In Force

Article 9

In respect of liability insurance or insurance of immovable property, the insurer may in addition be sued in the courts for the place where the harmful event occurred. The same applies if movable and immovable property are covered by the same insurance policy and both are adversely affected by the same contingency.

Law In Force

Article 10

In respect of liability insurance, the insurer may also, if the law of the court permits it, be joined in proceedings which the injured party had brought against the insured.

The provisions of Articles 7, 8 and 9 shall apply to actions brought by the injured party directly against the insurer, where such direct actions are permitted.

If the law governing such direct actions provides that the policy-holder or the insured may be joined as a party to the action, the same court shall have jurisdiction over them.

Law In Force

Article 11

Without prejudice to the provisions of the third paragraph of Article 10, an insurer may bring proceedings only in the courts of the Contracting State in which the defendant is domiciled, irrespective of whether he is the policy-holder, the insured or a beneficiary.

The provisions of this Section shall not affect the right to bring a counterclaim in the court in which, in accordance with this Section, the original claim is pending.

Law In Force

Article 12

The provisions of this Section may be departed from only by an agreement on jurisdiction—

1. which is entered into after the dispute has arisen, or
2. which allows the policy-holder, the insured or a beneficiary to bring proceedings in courts other than those indicated in this Section, or
3. which is concluded between a policy-holder and an insurer, both of whom are domiciled in the same Contracting State, and which has the effect of conferring jurisdiction on the courts of that State even if the harmful event were to occur abroad, providing that such an agreement is not contrary to the law of that State, or
4. which is concluded with a policy-holder who is not domiciled in a Contracting State, except in so far as the insurance is compulsory or relates to immovable property in a Contracting State, or
5. which relates to a contract of insurance in so far as it covers one or more of the risks set out in Article 12a.


Law In Force

Article 12a

The following are the risks referred to in point 5 of Article 12–

1. Any loss of or damage to–
 - (a) sea-going ships, installations situated offshore or on the high seas, or aircraft, arising from perils which relate to their use for commercial purposes;
 - (b) goods in transit other than passengers' baggage where the transit consists of or includes carriage by such ships or aircraft.
2. Any liability, other than for bodily injury to passengers or loss of or damage to their baggage–
 - (a) arising out of the use or operation of ships, installations or aircraft as referred to in point 1(a) above in so far as the law of the Contracting State in which such aircraft are registered does not prohibit agreements on jurisdiction regarding insurance of such risks;
 - (b) for loss or damage caused by goods in transit as described in point 1(b) above.
3. Any financial loss connected with the use or operation of ships, installations or aircraft as referred to in point 1(a) above, in particular loss of freight or charter-hire.
4. Any risk or interest connected with any of those referred to in points 1 to 3 above.

SECTION 4 JURISDICTION OVER CONSUMER CONTRACTS

 Law In Force

Article 13

In proceedings concerning a contract concluded by a person for a purpose which can be regarded as being outside his trade or profession, hereinafter called “the consumer”, jurisdiction shall be determined by this section, without prejudice to the provisions of Article 4 and point 5 of Article 5, if it is–

1. a contract for the sale of goods on instalment credit terms, or
2. a contract for a loan repayable by instalments, or for any other form of credit, made to finance the sale of goods, or
3. any other contract for the supply of goods or a contract for the supply of services, and
 - (a) in the State of the consumer's domicile the conclusion of the contract was preceded by a specific invitation addressed to him or by advertising; and
 - (b) the consumer took in that State the steps necessary for the conclusion of the contract.

Where a consumer enters into a contract with a party who is not domiciled in a Contracting State but has a branch, agency or other establishment in one of the Contracting States, that party shall, in disputes arising out of the operations of the branch, agency or establishment, be deemed to be domiciled in that State.

This Section shall not apply to contracts of transport.

 Law In Force

Article 14

A consumer may bring proceedings against the other party to a contract either in the courts of the Contracting State in which that party is domiciled or in the courts of the Contracting State in which he is himself domiciled.

Proceedings may be brought against a consumer by the other party to the contract only in the courts of the Contracting State in which the consumer is domiciled.

These provisions shall not affect the right to bring a counter-claim in the court in which, in accordance with this Section, the original claim is pending.

Law In Force

Article 15

The provisions of this Section may be departed from only by an agreement—

1. which is entered into after the dispute has arisen, or
2. which allows the consumer to bring proceedings in courts other than those indicated in this Section, or
3. which is entered into by the consumer and the other party to the contract, both of whom are at the time of conclusion of the contract domiciled or habitually resident in the same Contracting State, and which confers jurisdiction on the courts of that State, provided that such an agreement is not contrary to the law of that State.

SECTION 5 EXCLUSIVE JURISDICTION

Law In Force

Article 16

The following courts shall have exclusive jurisdiction, regardless of domicile:

1.
 - (a) in proceedings which have as their object rights in rem in immovable property or tenancies of immovable property, the courts of the Contracting State in which the property is situated;
 - (b) however, in proceedings which have as their object tenancies of immovable property concluded for temporary private use for a maximum period of six consecutive months, the courts of the Contracting State in which the defendant is domiciled shall also have jurisdiction, provided that the landlord and the tenant are natural persons and are domiciled in the same Contracting State.
2. In proceedings which have as their object the validity of the constitution, the nullity or the dissolution of companies or other legal persons or associations of natural or legal persons, or the decisions of their organs, the courts of the Contracting State in which the company, legal person or association has its seat.
3. In proceedings which have as their object the validity of entries in public registers, the courts of the Contracting State in which the register is kept.
4. In proceedings concerned with the registration or validity of patents, trade marks, designs, or other similar rights required to be deposited or registered, the courts of the Contracting State in which the deposit or registration has been applied for, has taken place or is under the terms of an international convention deemed to have taken place.
5. In proceedings concerned with the enforcement of judgments, the courts of the Contracting State in which the judgment has been or is to be enforced.

SECTION 6 PROROGATION OF JURISDICTION Law In Force***Article 17***

If the parties, one or more of whom is domiciled in a Contracting State, have agreed that a court or the courts of a Contracting State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have exclusive jurisdiction. Such an agreement conferring jurisdiction shall be either—

- (a) in writing or evidenced in writing, or
- (b) in a form which accords with practices which the parties have established between themselves, or
- (c) in international trade or commerce, in a form which accords with a usage of which the parties are or ought to have been aware and which in such trade or commerce is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade or commerce concerned.

Where such an agreement is concluded by parties, none of whom is domiciled in a Contracting State, the courts of other Contracting States shall have no jurisdiction over their disputes unless the court or courts chosen have declined jurisdiction.

The court or courts of a Contracting State on which a trust instrument has conferred jurisdiction shall have exclusive jurisdiction in any proceedings brought against a settlor, trustee or beneficiary, if relations between these persons or their rights or obligations under the trust are involved.

Agreement or provisions of a trust instrument conferring jurisdiction shall have no legal force if they are contrary to the provisions of Articles 12 or 15, or if the courts whose jurisdiction they purport to exclude have exclusive jurisdiction by virtue of Article 16.

If an agreement conferring jurisdiction was concluded for the benefit of only one of the parties, that party shall retain the right to bring proceedings in any other court which has jurisdiction by virtue of this Convention.

In matters relating to individual contracts of employment an agreement conferring jurisdiction shall have legal force only if it is entered into after the dispute has arisen or if the employee invokes it to seise courts other than those for the defendant's domicile or those specified in Article 5(1).

 Law In Force***Article 18***

Apart from jurisdiction derived from other provisions of this Convention a court of a Contracting State before whom a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered solely to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of Article 16.

SECTION 7 EXAMINATION AS TO JURISDICTION AND ADMISSIBILITY Law In Force***Article 19***

Where a court of a Contracting State is seised of a claim which is principally concerned with a matter over which the courts of another Contracting State have exclusive jurisdiction by virtue of Article 16, it shall declare of its own motion that it has no jurisdiction.

Law In Force

Article 20

Where a defendant domiciled in one Contracting State is sued in a court of another Contracting State and does not enter an appearance, the court shall declare of its own motion that it has no jurisdiction unless its jurisdiction is derived from the provisions of the Convention.

The court shall stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end.

The provisions of the foregoing paragraph shall be replaced by those of Article 15 of the Hague Convention of 15th November 1965 on the service abroad of judicial and extrajudicial documents in civil or commercial matters, if the documents instituting the proceedings or notice thereof had to be transmitted abroad in accordance with that Convention.

SECTION 8 LIS PENDENS - RELATED ACTIONS

Law In Force

Article 21

Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Contracting States, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.//In.B.12133

Law In Force

Article 22

Where related actions are brought in the courts of different Contracting States, any court other than the court first seised may, while the actions are pending at first instance, stay its proceedings.

A court other than the court first seised may also, on the application of one of the parties, decline jurisdiction if the law of that court permits the consolidation of related actions and the court first seised has jurisdiction over both actions.

For the purposes of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

Law In Force

Article 23

Where actions come within the exclusive jurisdiction of several courts, any court other than the court first seised shall decline jurisdiction in favour of that court.

SECTION 9 PROVISIONAL, INCLUDING PROTECTIVE, MEASURES Law In Force**Article 24**

Application may be made to the courts of a Contracting State for such provisional, including protective, measures as may be available under the law of that State, even if, under this Convention, the courts of another Contracting State have jurisdiction as to the substance of the matter.

TITLE III**RECOGNITION AND ENFORCEMENT** Law In Force**Article 25**

For the purpose of this Convention, “judgment” means any judgment given by a court or tribunal of a Contracting State, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court.

SECTION 1 RECOGNITION Law In Force**Article 26**

A judgment given in a Contracting State shall be recognized in the other Contracting States without any special procedure being required.

Any interested party who raises the recognition of a judgment as the principal issue in a dispute may, in accordance with the procedures provided for in Section 2 and 3 of this Title, apply for a decision that the judgment be recognised.

If the outcome of proceedings in a court of a Contracting State depends on the determination of an incidental question of recognition that court shall have jurisdiction over that question.

 Law In Force**Article 27**

A judgment shall not be recognized—

1. If such recognition is contrary to public policy in the State in which recognition is sought.
2. Where it was given in default of appearance, if the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to arrange for his defence.
3. If the judgment is irreconcilable with a judgment given in a dispute between the same parties in the State in which recognition is sought.
4. If the court of the State of origin, in order to arrive at its judgment, has decided a preliminary question concerning the status or legal capacity of natural persons, rights in property arising out of a matrimonial relationship, wills or succession in a way that conflicts

with a rule of the private international law of the State in which the recognition is sought, unless the same result would have been reached by the application of the rules of private international law of that State.

5. If the judgment is irreconcilable with an earlier judgment given in a non-contracting State involving the same cause of action and between the same parties, provided that this latter judgment fulfils the conditions necessary for its recognition in the state addressed.

Law In Force

Article 28

Moreover, a judgment shall not be recognised if it conflicts with the provisions of Sections 3, 4 or 5 of Title II, or in a case provided for in Article 59.

In its examination of the grounds of jurisdiction referred to in the foregoing paragraph, the court or authority applied to shall be bound by the findings of fact on which the court of the State of origin based its jurisdiction.

Subject to the provisions of the first paragraph, the jurisdiction of the court of the State of origin may not be reviewed; the test of public policy referred to in point 1 of Article 27 may not be applied to the rules relating to jurisdiction.

Law In Force

Article 29

Under no circumstances may a foreign judgment be reviewed as to its substance.

Law In Force

Article 30

A court of a Contracting State in which recognition is sought of a judgment given in another Contracting State may stay the proceedings if an ordinary appeal against the judgment has been lodged.

A court of a Contracting State in which recognition is sought of a judgment given in Ireland or the United Kingdom may stay the proceedings if enforcement is suspended in the State of origin, by reason of an appeal.

SECTION 2 ENFORCEMENT

Law In Force

Article 31

A judgment given in a Contracting State and enforceable in that State shall be enforced in another Contracting State when, on the application of any interested party, it has been declared enforceable there.

However, in the United Kingdom, such a judgment shall be enforced in England and Wales, in Scotland, or in Northern Ireland when, on the application of any interested party, it has been registered for enforcement in that part of the United Kingdom.

Law In Force

Article 32

1. The application shall be submitted—
 - in Belgium, to the tribunal de première instance or rechtbank van eerste aanleg,
 - in Denmark, to the byret,
 - in the Federal Republic of Germany, to the presiding judge of a chamber of the Landgericht,
 - in Greece, to the *Μονομελές Πρωτοδικείο*,
 - in Spain, to the Juzgado de Primera Instancia,
 - in France, to the presiding judge of the tribunal de grande instance,
 - in Ireland, to the High Court,
 - in Italy, to the corte d'appello,
 - in Luxembourg, to the presiding judge of the tribunal d'arrondissement, //I.C17900
 - in the Netherlands, to the presiding judge of the d'arrondissementsrechtbank,
 - in Austria, to the Bezirksgericht,
 - in Portugal, to the Tribunal Judicial de Circulo,
 - in Finland, to the Käräjäoikeus/tingsrätt,
 - in Sweden, in the Svea hovrätt,
 - in the United Kingdom—
 - (a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State;
 - (b) in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court on transmission by the Secretary of State;
 - (c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court on transmission by the Secretary of State.
2. The jurisdiction of local courts shall be determined by reference to the place of domicile of the party against whom enforcement is sought. If he is not domiciled in the State in which enforcement is sought, it shall be determined by reference to the place of enforcement.

Law In Force

Article 33

The procedure for making the application shall be governed by the law of the State in which enforcement is sought.

The applicant must give an address for service of process within the area of jurisdiction of the court applied to. However, if the law of the State in which enforcement is sought does not provide for the furnishing of such an address, the applicant shall appoint a representative ad litem.

The documents referred to in Articles 46 and 47 shall be attached to the application.

Law In Force

Article 34

The court applied to shall give its decision without delay; the party against whom enforcement is sought shall not at this stage of the proceedings be entitled to make any submissions on the application.

The application may be refused only for one of the reasons specified in Articles 27 and 28.

Under no circumstances may the foreign judgment be reviewed as to its substance.

Law In Force

Article 35

The appropriate officer of the court shall without delay bring the decision given on the application to the notice of the applicant in accordance with the procedure laid down by the law of the State in which enforcement is sought.

Law In Force

Article 36

If enforcement is authorized, the party against whom enforcement is sought may appeal against the decision within one month of service thereof.

If that party is domiciled in a Contracting State other than that in which the decision authorizing enforcement was given, the time for appealing shall be two months and shall run from the date of service, either on him in person or at his residence. No extension of time may be granted on account of distance.

Law In Force

Article 37

1. An appeal against the decision authorizing enforcement shall be lodged in accordance with the rules governing procedure in contentious matters—

- in Belgium, with the tribunal de première instance or rechtbank van eerste aanleg,
- in Denmark, with the landsret,
- in the Federal Republic of Germany, with the Oberlandesgericht,
- in Greece, with the *Εφετείο*,
- in Spain, with the Audiencia Provincial,
- in France, with the cour d'appel,
- in Ireland, with the High Court,
- in Italy, with the corte d'appello,
- in Luxembourg, with the Court supérieure de justice sitting as a court of civil appeal,
- in the Netherlands, with the arrondissementsrechtbank,
- in Austria, with the Bezirksgericht,
- in Portugal, with the Tribunal de Relação,
- in Finland, with the hovioikeus/hovrätt,
- in Sweden, with the Svea hovrätt,
- in the United Kingdom—

(a) in England and Wales, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court;

(b) in Scotland, with the Court of Session, or in the case of a maintenance judgment with the Sheriff Court;

(c) in Northern Ireland, with the High Court of Justice, or in the case of a maintenance judgment with the Magistrates' Court.

2. The judgment given on the appeal may be contested only—
- in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation,
 - in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice,
 - in the Federal Republic of Germany, by a Rechtsbeschwerde,
 - in Ireland, by an appeal on a point of law to the Supreme Court,
 - in Austria, in the case of an appeal by a Revisionsrekurs and, in the case of opposition proceedings, by a Berufung with the possibility of a revision,
 - in Portugal, by an appeal on a point of law,
 - in Finland, by an appeal to korkein oikeus/högsta domstolen,
 - in Sweden, by an appeal to Högsta domstolen,
 - in the United Kingdom, by a single further appeal on a point of law.

Law In Force

Article 38

The court with which the appeal under Article 37(1) is lodged may, on the application of the appellant, stay the proceedings if an ordinary appeal has been lodged against the judgment in the State of origin or if the time for such an appeal has not yet expired; in the latter case, the court may specify the time within which such an appeal is to be lodged.

Where the judgement was given in Ireland or the United Kingdom, any form of appeal available in the State of origin shall be treated as an ordinary appeal for the purposes of the first paragraph. The court may also make enforcement conditional on the provision of such security as it shall determine.

Law In Force

Article 39

During the time specified for an appeal pursuant to Article 36 and until any such appeal has been determined, no measures of enforcement may be taken other than protective measures taken against the property of the party against whom enforcement is sought.

The decision authorising enforcement shall carry with it the power to proceed to any such protective measures.

Law In Force

Article 40

1. If the application for enforcement is refused, the applicant may appeal—
- in Belgium, to the cour d'appel or hof van beroep, - in Denmark, to the landsret,
 - the Federal Republic of Germany, to the Oberlandesgericht, - Greece, to the Εφετείο,- in Spain, to the Audiencia Provincial, - in France, to the cour d'appel, - in Ireland, to the High Court, - in Italy, to the corte d'appello, - in Luxembourg, to the Cour supérieure de justice sitting as a court of civil appeal, - in the Netherlands, to the gerechtshof, - in Austria, to the Bezirksgericht, - in Portugal, to the Tribunal

de Relação, - in Finland, to the hovioikeus/hovrätten, - in Sweden, to the Svea hovrätt, - in the United Kingdom—

(a) in England and Wales, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court;

(b) in Scotland, to the Court of Session, or in the case of a maintenance judgment to the Sheriff Court;

(c) in Northern Ireland, to the High Court of Justice, or in the case of a maintenance judgment to the Magistrates' Court.

2. The party against whom enforcement is sought shall be summoned to appear before the appellate court. If he fails to appear, the provisions of the second and third paragraphs of Article 20 shall apply even where he is not domiciled in any of the Contracting States.

Law In Force

Article 41

A judgment given on appeal provided for in Article 40 may be contested only—

—in Belgium, Greece, Spain, France, Italy, Luxembourg and in the Netherlands, by an appeal in cassation, - in Denmark, by an appeal to the højesteret, with the leave of the Minister of Justice, - in the Federal Republic of Germany, by a Rechtsbeschwerde, - in Ireland, by an appeal on a point of law to the Supreme Court, - in Austria, by a Revisionsrekurs, - in Portugal, by an appeal on a point of law, - in Finland, by an appeal to korkein oikeus/högsta domstolen, - in Sweden, by an appeal to Högsta domstolen, - in the United Kingdom, by a single further appeal on a point of law.

Law In Force

Article 42

Where a foreign judgment has been given in respect of several matters and enforcement cannot be authorized for all of them, the court shall authorize enforcement for one or more of them.

An applicant may request partial enforcement of a judgment.

Law In Force

Article 43

A foreign judgment which orders a periodic payment by way of a penalty shall be enforceable in the State in which enforcement is sought only if the amount of the payment has been finally determined by the courts of the State of origin.

Law In Force

Article 44

An applicant who, in the State of origin has benefited from complete or partial legal aid or exemption from costs or expenses, shall be entitled, in the procedures provided for in Articles 32 to 35, to benefit from the most favourable legal aid or the most extensive exemption from costs or expenses provided for by the law of the State addressed

However, an applicant who requests the enforcement of a decision given by an administrative authority in Denmark in respect of a maintenance order may, in the State addressed, claim the benefits referred to in the first paragraph if he presents a statement from the Danish Ministry of

Justice to the effect that he fulfils the economic requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses.

Law In Force

Article 45

No security, bond or deposit, however described, shall be required of a party who in one Contracting State applies for enforcement of a judgment given in another Contracting State on the ground that he is a foreign national or that he is not domiciled or resident in the State in which enforcement is sought.

SECTION 3 COMMON PROVISIONS

Law In Force

Article 46

A party seeking recognition or applying for enforcement of a judgment shall produce—

1. a copy of the judgment which satisfies the conditions necessary to establish its authenticity;
2. in the case of a judgment given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document.

Law In Force

Article 47

A party applying for enforcement shall also produce—

1. documents which establish that, according to the law of the State of origin the judgment is enforceable and has been served;
2. where appropriate, a document showing that the applicant is in receipt of legal aid in the State of origin.

Law In Force

Article 48

If the documents specified in point 2 of Articles 46 and 47 are not produced, the court may specify a time for their production, accept equivalent documents or, if it considers that it has sufficient information before it, dispense with their production.

If the court so requires, a translation of the documents shall be produced; the translation shall be certified by a person qualified to do so in one of the Contracting States.

Law In Force

Article 49

No legalization or other similar formality shall be required in respect of the documents referred to in Articles 46 or 47 or the second paragraph of Article 48, or in respect of a document appointing a representative ad litem.

TITLE IV**AUTHENTIC INSTRUMENTS AND COURT SETTLEMENTS** Law In Force***Article 50***

A document which has been formally drawn up or registered as an authentic instrument and is enforceable in one Contracting State shall, in another Contracting State, be declared enforceable there, on application made in accordance with the procedures provided for in Article 31 et seq. The application may be refused only if enforcement of the instrument is contrary to public policy in the State addressed.

The instrument produced must satisfy the conditions necessary to establish its authenticity in the State of origin.

The provisions of Section 3 of Title III shall apply as appropriate.

 Law In Force***Article 51***

A settlement which has been approved by a court in the course of proceedings and is enforceable in the State in which it was concluded shall be enforceable in the State addressed under the same conditions as authentic instruments.

TITLE V**GENERAL PROVISIONS** Law In Force***Article 52***

In order to determine whether a party is domiciled in the Contracting State whose courts are seised of a matter, the Court shall apply its internal law.

If a party is not domiciled in the State whose courts are seised of the matter, then, in order to determine whether the party is domiciled in another Contracting State, the court shall apply the law of that State.

 Law In Force***Article 53***

For the purposes of this Convention, the seat of a company or other legal person or association of natural or legal persons shall be treated as its domicile. However, in order to determine that seat, the court shall apply its rules of private international law.

In order to determine whether a trust is domiciled in the Contracting State whose courts are seised of the matter, the court shall apply its rules of private international law.

TITLE VI

TRANSITIONAL PROVISIONS

Law In Force

Article 54

The provisions of the Convention shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments after its entry into force in the State of origin and, where recognition or enforcement of a judgment or authentic instruments is sought, in the State addressed.

However, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall be recognized and enforced in accordance with the provisions of Title III if jurisdiction was founded upon rules which accorded with those provided for either in Title II of this Convention or in a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

If the parties to a dispute concerning a contract had agreed in writing before 1st June 1988 for Ireland or before 1st January 1987 for the United Kingdom that the contract was to be governed by the law of Ireland or of a part of the United Kingdom, the courts of Ireland or of that part of the United Kingdom shall retain the right to exercise jurisdiction in the dispute.

Law In Force

Article 54a

For a period of three years from 1st November 1987 for Denmark and from 1st June 1988 for Ireland, jurisdiction in maritime matters shall be determined in these States not only in accordance with the provisions of Title II, but also in accordance with the provisions of paragraphs 1 to 6 following. However, upon the entry into force of the International Convention relating to the arrest of sea-going ships, signed at Brussels on 10th May 1952, for one of these States, these provisions shall cease to have effect for that State.

1. A person who is domiciled in a Contracting State may be sued in the Courts of one of the States mentioned above in respect of a maritime claim if the ship to which the claim relates or any other ship owned by him has been arrested by judicial process within the territory of the latter State to secure the claim, or could have been so arrested there but bail or other security has been given, and either—

- (a) the claimant is domiciled in the latter State, or
- (b) the claim arose in the latter State, or
- (c) the claim concerns the voyage during which the arrest was made or could have been made, or
- (d) the claim arises out of a collision or out of damage caused by a ship to another ship or to goods or persons on board either ship, either by the execution or non-execution of a manoeuvre or by the non-observance of regulations, or
- (e) the claim is for salvage, or
- (f) the claim is in respect of a mortgage or hypothecation of the ship arrested.

2. A claimant may arrest either the particular ship to which the maritime claim relates, or any other ship which is owned by the person who was, at the time when the maritime claim

arose, the owner of the particular ship. However, only the particular ship to which the maritime claim relates may be arrested in respect of the maritime claims set out in 5(0), (p) or (q) of this Article.

3. Ships shall be deemed to be in the same ownership when all the shares therein are owned by the same person or persons.

4. When in the case of a charter by demise of a ship the charterer alone is liable in respect of a maritime claim relating to that ship, the claimant may arrest that ship or any other ship owned by the charterer, but no other ship owned by the owner may be arrested in respect of such claim. The same shall apply to any case in which a person other than the owner of a ship is liable in respect of a maritime claim relating to that ship.

5. The expression “maritime claim” means a claim arising out of one or more of the following—

- (a) damage caused by any ship either in collision or otherwise;
- (b) loss of life or personal injury caused by any ship or occurring in connection with the operation of any ship;
- (c) salvage;
- (d) agreement relating to the use or hire of any ship whether by charterparty or otherwise;
- (e) agreement relating to the carriage of goods in any ship whether by charterparty or otherwise;
- (f) loss of or damage to goods including baggage carried in any ship;
- (g) general average;
- (h) bottomry;
- (i) towage;
- (j) pilotage;
- (k) goods or materials wherever supplied to a ship for her operation or maintenance;
- (l) construction, repair or equipment of any ship or dock charges and dues;
- (m) wages of master, officers or crew;
- (n) master's disbursements, including disbursements made by shippers, charterers or agents on behalf of a ship or her owner;
- (o) dispute as to the title to or ownership of any ship;
- (p) disputes between co-owners of any ship as to the ownership, possession, employment or earnings of that ship;
- (q) the mortgage or hypothecation of any ship.

6. In Denmark, the expression “arrest” shall be deemed as regards the maritime claims referred to in 5(o) and (p) of this Article, to include a “forbud”, where that is the only procedure allowed in respect of such a claim under Articles 646 to 653 of the law on civil procedure (lov om rettens pleje).

TITLE VII

RELATIONSHIP TO OTHER CONVENTIONS

Law In Force

Article 55

Subject to the provisions of the second subparagraph of Article 54, and of Article 56 his Convention shall, for the States which are parties to it, supersede the following conventions concluded between two or more of them—

—the Convention between Belgium and France on jurisdiction and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Paris on 8th July 1899,

—the Convention between Belgium and the Netherlands on jurisdiction, bankruptcy, and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Brussels on 28th March 1925,

—the Convention between France and Italy on the enforcement of judgments in civil and commercial matters, signed at Rome on 3rd June 1930,

—the Convention between the United Kingdom and the French Republic providing for the reciprocal enforcement of judgments in civil and commercial matters, with Protocol, signed at Paris on 18th January 1934,

—the Convention between the United Kingdom and the Kingdom of Belgium providing for the reciprocal enforcement of judgments in civil and commercial matters, with Protocol, signed at Brussels on 2nd May 1934,

—the Convention between Germany and Italy on the recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 9th March 1936,

—the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgments and authentic instruments relating to maintenance obligations, signed at Vienna on 25th October 1957,

—the Convention between the Federal Republic of Germany and the Kingdom of Belgium on the mutual recognition and enforcement of judgments, arbitration awards and authentic instruments in civil and commercial matters, signed at Bonn on 30th June 1958,

—the Convention between the Kingdom of the Netherlands and the Italian Republic on the recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 17th April 1959,

—the Convention between the Federal Republic of Germany and Austria on the reciprocal recognition and enforcement of judgments, settlements and authentic instruments in civil and commercial matters, signed at Vienna on 6th June 1959,

—the Convention between the Kingdom of Belgium and Austria on the reciprocal recognition and enforcement of judgments, arbitral awards and authentic instruments in civil and commercial matters, signed at Vienna on 16th June 1959,


—the Convention between the United Kingdom and the Federal Republic of Germany for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Bonn on 14th July 1960,

—the Convention between the Kingdom of Greece and the Federal Republic of Germany for the reciprocal recognition and enforcement of judgments, settlements and authentic instruments in civil and commercial matters, signed in Athens on 4th November 1961,

—the Convention between the Kingdom of Belgium and the Italian Republic on the recognition and enforcement of judgments and other enforceable instruments in civil and commercial matters, signed at Rome on 6th April 1962,

—the Convention between the Kingdom of the Netherlands and the Federal Republic of Germany on the mutual recognition and enforcement of judgments and other enforceable instruments in civil and commercial matters, signed at The Hague on 30th August 1962,

- the Convention between the Kingdom of the Netherlands and Austria on the reciprocal recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at The Hague on 6th February 1963,
 - the Convention between France and Austria on the recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at Vienna on 15th July 1966,
 - the Convention between the United Kingdom and the Republic of Italy for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Rome on 7th February 1964, with amending Protocol signed at Rome on 14th July 1970,
 - the Convention between the United Kingdom and the Kingdom of the Netherlands providing for the reciprocal recognition and enforcement of judgments in civil matters, signed at The Hague on 17th November 1967
 - the Convention between Spain and France on the recognition and enforcement of judgment arbitration awards in civil and commercial matters, signed at Paris on 28th May 1969,
 - the Convention between the United Kingdom and Austria providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters, signed at Vienna on 14th July 1961 with amending Protocol signed at London on 6th March 1970,
 - the Convention between Luxembourg and Austria on the recognition and enforcement of judgments and authentic instruments in civil and commercial matters, signed at Luxembourg on 29th July 1971,
 - the Convention between Italy and Austria on the recognition and enforcement of judgments in civil and commercial matters, of judicial settlements and of authentic instruments, signed at Rome on 16th November 1971,
 - the Convention between Spain and Italy regarding legal aid and the recognition and enforcement of judgments in civil and commercial matters, signed at Madrid on 22nd May 1973,
 - the Convention between Finland, Iceland, Norway, Sweden and Denmark on the recognition and enforcement of judgments in civil matters, signed at Copenhagen on 11th October 1977,
 - the Convention between Austria and Sweden on the recognition and enforcement of judgments in civil matters, signed at Stockholm on 16th September 1982,
 - the Convention between Spain and the Federal Republic of Germany on the recognition and enforcement of judgments, settlements and enforceable authentic instruments in civil and commercial matters, signed at Bonn on 14th November 1983,
 - the Convention between Austria and Spain on the recognition and enforcement of judgments, settlements and enforceable authentic instruments in civil and commercial matters, signed at Vienna on 17th February 1984, and
 - the Convention between Finland and Austria on the recognition and enforcement of judgments in civil matters, signed at Vienna on 17th November 1986,
- and, in so far as it is in force—
- the Treaty between Belgium, the Netherlands and Luxembourg on jurisdiction, bankruptcy, and the validity and enforcement of judgments, arbitration awards and authentic instruments, signed at Brussels on 24th November 1961.

 Law In Force

Article 56

The Treaty and the conventions referred to in Article 55 shall continue to have effect in relation to matters to which this Convention does not apply.

They shall continue to have effect in respect of judgments given and documents formally drawn up or registered as authentic instruments before the entry into the force of this Convention.

Law In Force

Article 57

1. This Convention shall not affect any conventions to which the Contracting States are or will be parties and which in relation to particular matters, govern jurisdiction or the recognition or enforcement of judgments.

2. With a view to its uniform interpretation, paragraph 1 shall be applied in the following manner—

(a) this Convention shall not prevent a court of a Contracting State which is a party to a convention on a particular matter from assuming jurisdiction in accordance with that Convention, even where the defendant is domiciled in another Contracting State which is not a party to that Convention. The court hearing the action shall, in any event, apply Article 20 of this Convention.

(b) judgments given in a Contracting State by a court in the exercise of jurisdiction provided for in a convention on a particular matter shall be recognized and enforced in the other Contracting State in accordance with this Convention.

Where a convention on a particular matter to which both the State of origin and the State addressed are parties lays down conditions for the recognition or enforcement of judgments, those conditions shall apply. In any event, the provisions of this Convention which concern the procedure for recognition and enforcement of judgments may be applied.

3. This Convention shall not affect the application of provisions which, in relation to particular matters govern jurisdiction or the recognition or enforcement of judgments and which are or will be contained in acts of the institutions of the European Communities or in national laws harmonized in implementation of such acts.

Law In Force

Article 58

Until such time as the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Lugano on 16th September 1988 takes effect with regard to France and the Swiss Confederation, this Convention shall not affect the rights granted to Swiss nationals by the Convention between France and the Swiss Confederation on jurisdiction and enforcement of judgments in civil matters, signed at Paris on 15th June 1869.

Law In Force

Article 59

This Convention shall not prevent a Contracting State from assuming, in a convention on the recognition and enforcement of judgments, an obligation towards a third State not to recognize judgments given in other Contracting States against defendants domiciled or habitually resident in the third State where, in cases provided for in Article 4, the judgment could only be founded on a ground of jurisdiction specified in the second paragraph of Article 3.

However, a Contracting State may not assume an obligation towards a third State not to recognize a judgment given in another Contracting State by a court basing its jurisdiction on the presence within that State of property, belonging to the defendant, or the seizure by the plaintiff of property situated there—

1. if the action is brought to assert or declare proprietary or possessory rights in that property, seeks to obtain authority to dispose of it, or arises from another issue relating to such property, or
2. if the property constitutes the security for a debt which is the subject-matter of the action.

TITLE VIII

FINAL PROVISIONS

Law In Force

Article 60

[Deleted]

Law In Force

Article 61

This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Law In Force

Article 62

This Convention shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last signatory State to take this step.

Law In Force

Article 63

The Contracting States recognise that any State which becomes a member of the European Economic Community shall be required to accept this Convention as a basis for the negotiations between the Contracting States and that State necessary to ensure the implementation of the last paragraph of Article 220 of the Treaty establishing the European Economic Community.

The necessary adjustments may be the subject of a special convention between the Contracting States of the one part and the new Member States of the other part.

Law In Force

Article 64

The Secretary-General of the Council of the European Communities shall notify the signatory States of—

- (a) the deposit of each instrument of ratification;
- (b) the date of entry into force of this Convention;

- (c) [Deleted]
- (d) any declaration received pursuant to Article IV of the Protocol;
- (e) any communication made pursuant to Article VI of the Protocol;

Law In Force

Article 65

The Protocol annexed to this Convention by common accord of the Contracting States shall form an integral part thereof.

Law In Force

Article 66

This Convention is concluded for an unlimited period.

Law In Force

Article 67

Any Contracting State may request the revision of this Convention. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

Law In Force

Article 68

This Convention, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.

(Signatures of Plenipotentiaries of the original six Contracting States).

ANNEXED PROTOCOL

Law In Force

The High Contracting Parties have agreed upon the following provisions, which shall be annexed to the Convention.

Law In Force

Article I

Any person domiciled in Luxembourg who is sued in a court of another Contracting State pursuant to Article 5(1) may refuse to submit to the jurisdiction of that court. If the defendant does not enter an appearance the court shall declare of its own motion that it has no jurisdiction.

An agreement conferring jurisdiction, within the meaning of Article 17, shall be valid with respect to a person domiciled in Luxembourg only if that person has expressly and specifically so agreed.

Law In Force

Article II

Without prejudice to any more favourable provisions of national laws, persons domiciled in a Contracting State who are being prosecuted in the criminal courts of another Contracting State of which they are not nationals for an offence which was not intentionally committed may be defended by persons qualified to do so, even if they do not appear in person.

However, the court seized of the matter may order appearance in person; in the case of failure to appear, a judgment given in the civil action without the person concerned having had the opportunity to arrange for his defence need not be recognised or enforced in the other Contracting States.

Law In Force

Article III

In proceedings for the issue of an order for enforcement, no charge, duty or fee calculated by reference to the value of the matter in issue may be levied in the State in which enforcement is sought.

Law In Force

Article IV

Judicial and extrajudicial documents drawn up in one Contracting State which have to be served on persons in another Contracting State shall be transmitted in accordance with the procedures laid down in the conventions and agreements concluded between the Contracting States.

Unless the State in which service is to take place objects by declaration to the Secretary-General of the Council of the European Communities, such documents may also be sent by the appropriate public officers of the State in which the document has been drawn up directly to the appropriate public officers of the State in which the addressee is to be found. In this case the officer of the State of origin shall send a copy of the document to the officer of the State applied to who is competent to forward it to the addressee. The document shall be forwarded in the manner specified by the law of the State applied to. The forwarding shall be recorded by a certificate sent directly to the officer of the State of origin.

Law In Force

Article V

The jurisdiction specified in Articles 6(2) and 10 in actions on a warranty or guarantee or in any other third party proceedings may not be resorted to in the Federal Republic of Germany or in Austria. Any person domiciled in another Contracting State may be sued in the courts:

- of the Federal Republic of Germany, pursuant to Articles 68, 72, 73 and 74 of the code of civil procedure (*Zivilprozessordnung*) concerning third-party notices;
- of Austria, pursuant to Article 21 of the code of civil procedure (*Zivilprozessordnung*) concerning third-party notices.

Judgments given in the other Contracting States by virtue of Articles 6 (2) or 10 shall be recognised and enforced in the Federal Republic of Germany and in Austria in accordance with Title III. Any effects which judgments given in those States may have on third parties by application of the provisions in the preceding paragraph shall also be recognised in the other Contracting States.

Law In Force

Article Va

In matters relating to maintenance, the expression “court” includes the Danish administrative authorities.

In Sweden, in summary proceedings concerning orders to pay (betalningsföreläggande) and assistance (bandräckning), the expression “court” includes the “Swedish enforcement service” (kronofogdemyndighet).

Law In Force

Article Vb

In proceedings involving a dispute between the master and a member of the crew of a sea-going ship registered in Denmark, in Greece, in Ireland or in Portugal, concerning remuneration or other conditions of service, a court in a Contracting State shall establish whether the diplomatic or consular officer responsible for the ship has been notified of the dispute. It shall stay the proceedings so long as he has not been notified. It shall of its own motion decline jurisdiction if the officer, having been duly notified, has exercised the powers accorded to him in the matter by a consular convention, or in the absence of such a convention has, within the time allowed, raised any objection to the exercise of such jurisdiction.

Law In Force

Article Vc

Articles 52 and 53 of this Convention shall, when applied by Article 69(5) of the Convention for the European patent for the common market, signed at Luxembourg on 15 December 1975, to the provisions relating to “residence” in the English text of that Convention, operate as if “residence” in that text were the same as “domicile” in Articles 52 and 53.

Law In Force

Article Vd

Without prejudice to the jurisdiction of the European Patent Office under the Convention on the grant of European patents, signed at Munich on 5 October 1973, the courts of each Contracting State shall have exclusive jurisdiction, regardless of domicile, in proceedings concerned with the registration or validity of any European patent granted for that State which is not a Community patent by virtue of the provisions of Article 86 of the Convention for the European patent for the common market, signed at Luxembourg on 15 December 1975.

Law In Force

Article Ve

Arrangements relating to maintenance obligations concluded with administrative authorities or authenticated by them shall also be regarded as authentic instruments within the meaning of the first paragraph of Article 50 of the Convention.

Law In Force

article VI

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the text of any provisions of their laws which amend either those articles of their

laws mentioned in the Convention or the lists of courts specified in Section 2 of Title III of the Convention.

(Signatures of Plenipotentiaries of the original six Contracting States).”.

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Notes

- ¹ Substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Sch.1 para.1 (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)

Commencement

Sch. 1 para. 1: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Sch. 1 para. 1: United Kingdom

[SCHEDULE 2

TEXT OF 1971 PROTOCOL, AS AMENDED

Section 2(2)

] ¹

Notes

- ¹ Sch. 2 substituted by S.I. 1989/1346, art. 9(2), Sch. 2
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Law In Force

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“SCHEDULE 2

TEXT OF 1971 PROTOCOL, AS AMENDED

Article 1

The Court of Justice of the European Communities shall have jurisdiction to give rulings on the interpretation of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters and of the Protocol annexed to that Convention, signed at Brussels on 27th September 1968, and also on the interpretation of the present Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the Convention of 27 September 1968 and to this Protocol.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Hellenic Republic

to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Kingdom of Spain and the Portuguese Republic to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention and the 1982 Convention.

The Court of Justice of the European Communities shall also have jurisdiction to give rulings on the interpretation of the Convention on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention of 27 September 1968 and to this Protocol, as adjusted by the 1978 Convention, the 1982 Convention and the 1989 Convention.

Article 2

The following courts may request the Court of Justice to give preliminary rulings on questions of interpretation—

1. — in Belgium: la Cour de Cassation— het Hof van Cassatie and le Conseil d'État— de Raad van State,
 - in Denmark: højesteret,
 - in the Federal Republic of Germany: die obersten Gerichtshöfe des Bundes,
 - in Greece: the *ανωτάτα δικαστήρια*,
 - in Spain: el Tribunal Supremo,
 - in France: la Cour de Cassation and le Conseil d'État,
 - in Ireland: the Supreme Court,
 - in Italy: la Corte Suprema di Cassazione,
 - in Luxembourg: la Cour Supérieure de Justice when sitting as Cour de Cassation,
 - in Austria: the Oberste Gerichtshof, the Verwaltungsgerichtshof and the Verfassungsgerichtshof,
 - in the Netherlands: de Hoge Raad,
 - in Portugal: o Supremo Tribunal de Justiça and o Supremo Tribunal Administrativo,
 - in Finland: Korkein oikeus/högsta domstolen and korkein hallinto-oikeus/högsta förvaltningsdomstolen,
 - in Sweden: Högsta domstolen, Regeringsrätten, Arbetsdomstolen and Marknadsdomstolen.
 - in the United Kingdom: the House of Lords and courts to which application has been made under the second paragraph of Article 37 or under Article 41 of the Convention.
2. The courts of the Contracting States when they are sitting in an appellate capacity.
3. In the cases provided for in Article 37 of the Convention, the courts referred to in that Article.

Article 3

1. Where a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 is raised in a case pending before one of the courts listed in point 1 of Article 2, that court shall, if it considers that a decision on

the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

2. Where such a question is raised before any court referred to in point 2 or 3 of Article 2, that court may, under the conditions laid down in paragraph 1, request the Court of Justice to give a ruling thereon.

Article 4

1. The competent authority of a Contracting State may request the Court of Justice to give a ruling on a question of interpretation of the Convention or of one of the other instruments referred to in Article 1 if judgments given by courts of that State conflict with the with the interpretation given either by the Court of Justice or in a judgment of one of the courts of another Contracting State referred to in point 1 or 2 of Article 2. The provisions of this paragraph shall apply only to judgments which have become res judicata.

2. The interpretation given by the Court of Justice in response to such a request shall not affect the judgments which gave rise to the request for interpretation.

3. The Procurators-General of the Courts of Cassation of the Contracting States, or any other authority designated by a Contracting State, shall be entitled to request the Court of Justice for a ruling on interpretation in accordance with paragraph 1.

4. The Registrar of the Court of Justice shall give notice of the request to the Contracting States, to the Commission and to the Council of the European Communities; they shall then be entitled within two months of the notification to submit statements of case or written observations to the Court.

5. No fees shall be levied or any costs or expenses awarded in respect of the proceedings provided for in this Article.

Article 5

1. Except where this Protocol otherwise provides, the provisions of the Treaty establishing the European Economic Community and those of the Protocol on the Statute of the Court of Justice annexed thereto, which are applicable when the Court is requested to give a preliminary ruling, shall also apply to any proceedings for the interpretation of the Convention and the other instruments referred to in Article 1.

2. The Rules of Procedure of the Court of Justice shall, if necessary, be adjusted and supplemented in accordance with Article 188 of the Treaty establishing the European Economic Community.

Article 6

[Deleted]

Article 7

This Protocol shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 8

This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification by the last signatory State to take this step;

provided that it shall at the earliest enter into force at the same time as the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters.

Article 9

The Contracting States recognise that any State which becomes a member of the European Economic Community, and to which Article 63 of the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters applies, must accept the provisions of this Protocol, subject to such adjustments as may be required.

Article 10

The Secretary-General of the Council of the European Communities shall notify the signatory States of—

- (a) the deposit of each instrument of ratification;
- (b) the date of entry into force of this Protocol;
- (c) any designation received pursuant to Article 4(3);
- (d) [Deleted]

Article 11

The Contracting States shall communicate to the Secretary-General of the Council of the European Communities the texts of any provisions of their laws which necessitate an amendment to the list of courts in point 1 of Article 2.

Article 12

This Protocol is concluded for an unlimited period.

Article 13

Any Contracting State may request the revision of this Protocol. In this event, a revision conference shall be convened by the President of the Council of the European Communities.

Article 14

This Protocol, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.”

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Notes

¹ Substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 2000/1824 Sch.2 para.1 (January 1, 2001: coming into force on the date on which the Convention on the accession of the Republic of Austria, the

Republic of Finland and the Kingdom of Sweden to the 1968 convention and to the Protocol enters into force in respect of the United Kingdom. The date will be notified in the London, Edinburgh and Belfast Gazettes)

Commencement

Sch. 2 para. 1: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Sch. 2 para. 1: United Kingdom

SCHEDULE 3**TEXT OF TITLES V AND VI OF THE ACCESSION CONVENTION, AS AMENDED****Section 2(2)**

Law In Force

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TITLE V**TRANSITIONAL PROVISIONS***Article 34*

Law In Force

1.

The 1968 Convention and the 1971 Protocol, with the amendments made by this Convention, shall apply only to legal proceedings instituted and to authentic instruments formally drawn up or registered after the entry into force of this Convention in the State of origin and, where recognition or enforcement of a judgment or authentic instrument is sought, in the State addressed.

Law In Force

2.

However, as between the six Contracting States to the 1968 Convention, judgments given after the date of entry into force of this Convention, in proceedings instituted before that date shall be recognised and enforced in accordance with the provisions of Title III of the 1968 Convention as amended.

Law In Force

3.

Moreover, as between the six Contracting States to the 1968 Convention and the three States mentioned in Article 1 of this Convention, and as between those three States, judgments given after the date of entry into force of this Convention between the State of origin and the State addressed in proceedings instituted before that date shall also be recognised and enforced in accordance with

the provisions of Title III of the 1968 Convention as amended if jurisdiction was founded upon rules which accorded with the provisions of Title II, as amended, or with provisions of a convention concluded between the State of origin and the State addressed which was in force when the proceedings were instituted.

Article 35

Law In Force

[Deleted]

Article 36

Law In Force

[Deleted]

TITLE VI

FINAL PROVISIONS

Article 37

Law In Force

The Secretary-General of the Council of the European Communities shall transmit a certified copy of the 1968 Convention and of the 1971 Protocol in the Dutch, French, German and Italian languages to the Governments of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland.

The texts of the 1968 Convention and the 1971 Protocol, drawn up in the Danish, English and Irish languages, shall be annexed to this Convention. The texts drawn up in the Danish, English and Irish languages shall be authentic under the same conditions as the original texts of the 1968 Convention and the 1971 Protocol.

Article 38

Law In Force

This Convention shall be ratified by the signatory States. The instruments of ratification shall be deposited with the Secretary-General of the Council of the European Communities.

Article 39

Law In Force

This Convention shall enter into force, as between the States which shall have ratified it, on the first day of the third month following the deposit of the last instrument of ratification by the original Member States of the Community and one new Member State.

It shall enter into force for each new Member State which subsequently ratifies it on the first day of the third month following the deposit of its instrument of ratification.

Article 40 Law In Force

The Secretary-General of the Council of the European Communities shall notify the signatory States of—

- (a) the deposit of each instrument of ratification;
- (b) the dates of entry into force of this Convention for the Contracting States.

Article 41 Law In Force

This Convention, drawn up in a single original in the Danish, Dutch, English, French, German, Irish and Italian languages, all seven texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities. The Secretary-General shall transmit a certified copy to the Government of each signatory State.

] ¹**Notes**

- ¹ Substituted by Civil Jurisdiction and Judgments Act 1982 (Amendment) Order 1990/2591 Sch.3 para.1 (December 1, 1991 as specified on page 17107 of the London Gazette dated November 8, 1991)

Commencement

Sch. 3 para. 1: January 1, 1987 (SI 1986/2044 art. 2)

Extent

Sch. 3 para. 1: United Kingdom

[SCHEDULE 3A**TEXT OF TITLES V AND VI OF 1982 ACCESSION CONVENTION****Section 2(2)**] ¹**Notes**

- ¹ Sch. 3A inserted by S.I. 1989/1346, art. 9(3), Sch. 3

 Law In Force

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