

2018 No.

EXITING THE EUROPEAN UNION

CIVIL PROCEEDINGS

**The European Enforcement Order, European Order for Payment
and European Small Claims Procedure (Amendment etc.) (EU
Exit) Regulations 2018**

Sift requirements satisfied ***

Made - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1

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

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

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the European Enforcement Order, European Order for Payment and European Small Claims Procedure (Amendment etc.) (EU Exit) Regulations 2018 and come into force on exit day.

Interpretation

2. In these Regulations—

“Regulation (EC) No 805/2004” means Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims;

“Regulation (EC) No 1896/2006” means Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure;

“Regulation (EC) No 861/2007” means Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure.

PART 2

Amendment of primary legislation

Amendment of the Debt Relief (Developing Countries) Act 2010

- 3.**—(1) The Debt Relief (Developing Countries) Act 2010(a) is amended as follows.
- (2) In section 7 (exception for overriding EU or international obligations)—
- (a) in the heading omit the words “EU or”;
 - (b) in subsection (1) for “European Union law, or by an international obligation of the United Kingdom,” substitute “an international obligation of the United Kingdom”;
 - (c) in subsection (2) omit paragraphs (a) and (b) (and the “or” after paragraph (b)).

PART 3

Amendment and revocation of subordinate legislation

Amendment of the High Court and County Courts Jurisdiction Order 1991

- 4.**—(1) The High Court and County Courts Jurisdiction Order 1991(b) is amended as follows.
- (2) In article 1A (interpretation) omit paragraphs (a) and (b).
- (3) In article 2 (jurisdiction), in paragraph (1), omit sub-paragraphs (q) and (r).
- (4) Omit article 6B (applications under the European small claims procedure).

Amendment of the High Court and County Courts Jurisdiction (Amendment) Order 2008

- 5.**—(1) The High Court and County Courts Jurisdiction (Amendment) Order 2008(c) is amended as follows.
- (2) Omit articles 3, 5 and 7 (amendments to the High Court and County Courts Jurisdiction Order 1991)(d).

Revocation of the European Communities (European Order for Payment) (Scotland) Regulations 2009

- 6.** The European Communities (European Order for Payment) (Scotland) Regulations 2009(e) are revoked.

(a) 2010 c. 22.
(b) S.I. 1991/724. Relevant amending instruments are S.I. 2008/2934 and S.I. 2014/821.
(c) S.I. 2008/2934.
(d) S.I. 1991/724.
(e) S.S.I. 2009/99.

PART 4

Amendment and revocation of retained direct EU legislation

Revocation of Regulation (EC) No 805/2004

7. Regulation (EC) No 805/2004 is revoked.

Revocation of Commission Regulation (EC) No 1869/2005

8. Commission Regulation (EC) No 1869/2005 of 16 November 2005 replacing the Annexes to Regulation (EC) No 805/2004 of the European Parliament and of the Council creating a European Enforcement Order for uncontested claims is revoked.

Revocation of Regulation (EC) No 1896/2006

9. Regulation (EC) No 1896/2006 is revoked.

Revocation of Regulation (EC) No 861/2007

10. Regulation (EC) No 861/2007 is revoked.

Amendment of Regulation (EC) No 1103/2008

11. In Regulation (EC) No 1103/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny, in the Annex, omit paragraph 4(a).

Revocation of Commission Regulation (EU) No 936/2012

12. Commission Regulation (EU) No 936/2012 of 4 October 2012 amending the Annexes to Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure is revoked.

Revocation of Regulation (EU) No 2015/2421

13. Regulation (EU) No 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure is revoked.

Revocation of Commission Delegated Regulation (EU) 2017/1259

14. Commission Delegated Regulation (EU) 2017/1259 of 19 June 2017 replacing Annexes I, II, III and IV to Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure is revoked.

Revocation of Commission Delegated Regulation (EU) 2017/1260

15. Commission Delegated Regulation (EU) 2017/1260 of 19 June 2017 replacing Annex I to Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure is revoked.

(a) Paragraph 4 is concerned with Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

PART 5

Saving Provisions

Saving: Regulation (EC) No 805/2004 - European Enforcement Orders applied for before exit day

16.—(1) Regulation (EC) No 805/2004 continues to apply as if it had not been revoked by these Regulations with the modifications set out in paragraph (2) in relation to a case where—

- (a) one or more of the following has occurred—
 - (i) a judgment has been given before exit day;
 - (ii) a court settlement has been approved or concluded before exit day;
 - (iii) an authentic instrument has been drawn up or registered before exit day;
- (b) the application for certification as a European Enforcement Order is made before exit day; and
- (c) enforcement of the certified judgment, court settlement, or authentic instrument is being sought in the United Kingdom.

(2) Those modifications are that Regulation (EC) No 805/2004 is to be read as if—

- (a) the term “Member State” included the United Kingdom;
- (b) Article 29 (information on enforcement procedures and authorities) were omitted;
- (c) Article 30 (information relating to redress procedures, languages and authorities) were omitted;
- (d) Article 31 (amendments to the Annexes) were omitted;
- (e) Article 32 (committee) were omitted.

(3) In this regulation—

- (a) “authentic instrument” means—
 - (i) a document which has been formally drawn up or registered as an authentic instrument, and the authenticity of which—
 - (aa) relates to the signature and the content of the instrument; and
 - (bb) has been established by a public authority or other authority empowered for that purpose by the member State in which it originates; or
 - (ii) an arrangement relating to maintenance obligations concluded with administrative authorities or authenticated by them;
- (b) “judgment” means any judgment given by a court or tribunal of a member 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.

Saving: Regulation (EC) No 1896/2006 - European orders for payment applied for before exit day

17.—(1) Regulation (EC) No 1896/2006 continues to apply as if it had not been revoked by these Regulations with the modifications set out in paragraph (2) in relation to a case where—

- (a) the application for a European order for payment is made before exit day; and
- (b) enforcement of that European order for payment is being sought in the United Kingdom.

(2) Those modifications are that Regulation (EC) No 1896/2006 is to be read as if—

- (a) references to “Member State” included the United Kingdom;
- (b) in Article 6(1) (jurisdiction) the words “the relevant rules of Community law, in particular” were omitted;

- (c) in the second sub-paragraph of paragraph 5 of Article 16 (opposition to the European order for payment) the final sentence were omitted;
- (d) Article 28 (information relating to service costs and enforcement) were omitted;
- (e) Article 29 (information relating to jurisdiction, review procedures, means of communication and languages) were omitted;
- (f) Article 30 (amendments to the Annexes) were omitted;
- (g) Article 31 (committee) were omitted;
- (h) Article 32 (review) were omitted.

Saving: Regulation (EC) No 861/2007 - European Small Claims Procedures commenced before exit day

18.—(1) Regulation (EC) No 861/2007 continues to apply as if it had not been revoked by these Regulations with the modifications set out in paragraph (2) in relation to a case where—

- (a) the claim form is lodged before exit day; and
- (b) enforcement of the judgment given in the European Small Claims Procedure is being sought in the United Kingdom.

(2) Those modifications are that Regulation (EC) No 861/2007 is to be read as if—

- (a) references to “Member State” included the United Kingdom;
- (b) Article 4(2) (Member States informing the Commission regarding means of communication) were omitted;
- (c) Article 17(1) (Member States informing the Commission regarding appeals) were omitted;
- (d) Article 24 (information) were omitted;
- (e) Article 25 (information relating to jurisdiction, means of communication and appeals) were omitted;
- (f) Article 26 (implementing measures) were omitted;
- (g) Article 27 (committee) were omitted;
- (h) Article 28 (review) were omitted.

Saving: Domestic legislation

19.—(1) In relation to a case where any of regulations 16, 17 and 18 apply, the provisions listed in paragraph (2) continue to have effect as if they had not been amended or, as the case may be, revoked by these Regulations.

(2) The provisions are—

- (a) section 7 of the Debt Relief (Developing Countries) Act 2010;
- (b) articles 1A, 2 and 6B of the High Court and County Courts Jurisdiction Order 1991;
- (c) articles 3, 5, and 7 of the High Court and County Courts Jurisdiction (Amendment) Order 2008;
- (d) the European Communities (European Order for Payment) (Scotland) Regulations 2009.

Signed by authority of the Secretary of State for Justice.

Address
Date

Name
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

These Regulations make amendments to legislation in the field of cross-border civil judicial cooperation relating to (i) the European Enforcement Order (EEO) as provided for by Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (“Regulation (EC) No 805/2004”), (ii) the European order for payment procedure (EOPP) as provided for by Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (“Regulation (EC) No 1896/2006”), and (iii) the European Small Claims Procedure (ESCP) as provided for by Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (“Regulation (EC) No 861/2007”).

Part 2 makes consequential amendments to the Debt Relief (Developing Countries) Act 2010.

Part 3 amends the High Court and County Courts Jurisdiction Order 1991 and the High Court and County Courts Jurisdiction (Amendment) Order 2008, and revokes the European Communities (European Order for Payment) (Scotland) Regulations 2009.

Part 4 revokes Regulation (EC) No 805/2004, Regulation (EC) No 1896/2006 and Regulation (EC) No 861/2007 and makes revocations and amendments to related retained EU law.

Part 5 saves and modifies certain legislation relating to the EEO, EOPP and ESCP for application to certain proceedings following exit day. Where a statement of opposition is lodged in accordance with Article 16 of Regulation (EC) No 1896/2006 in relation to a European order for payment to which regulation 17 of these Regulations applies, and those proceedings are transferred to continue as ordinary civil proceedings in accordance with Article 17 of Regulation (EC) No 1896/2006, reference should be made to the Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/****).

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