

## Consultation Annex i

### Draft amendments to the Civil Procedure Rules Part 74

#### **PART 74 - ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS**

##### **Scope of this Part and interpretation**

##### **74.1**

- (1) Section I of this Part applies to the enforcement in England and Wales of judgments of foreign courts.
- (2) Section II applies to the enforcement in foreign countries of judgments of the High Court and of the County Court.
- (3) Section III applies to the enforcement of United Kingdom judgments in other parts of the United Kingdom.
- (4) [Omitted]
- (4A) [Omitted]
- (4B) Section VI applies to—
  - (a) the certification in England and Wales of outgoing protection measures; and
  - (b) the enforcement in England and Wales of certified protection measures from Member States of the European Union other than Denmark.
- (5) In this Part –
  - (a) “the 1920 Act” means the Administration of Justice Act 1920;
  - (b) “the 1933 Act” means the Foreign Judgments (Reciprocal Enforcement) Act 1933;
  - (c) “the 1982 Act” means the Civil Jurisdiction and Judgments Act 1982;
  - (d) to (f) Omitted

- (g) “the 2005 Hague Convention” means the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague;
- (h) “the 2019 Hague Convention” means the Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters concluded on 2nd July 2019 at the Hague.

## I ENFORCEMENT IN ENGLAND AND WALES OF JUDGMENTS OF FOREIGN COURTS

### Interpretation

#### 74.2

(1) In this Section—

- (a) “Contracting State” has the meaning given in section 1(3) of the 1982 Act;
- (b) [Omitted]
- (c) “judgment” means, subject to any other enactment, any judgment given by a foreign court or tribunal, whatever the judgment may be called, and includes—
  - (i) a decree;
  - (ii) an order;
  - (iii) a decision;
  - (iv) a writ of execution [or a writ of control]; and
  - (v) the determination of costs by an officer of the court;
- (d) “State of origin”, in relation to any judgment, means the State in which that judgment was given;
- (e) “writ of control” is to be construed in accordance with section 62(4) of the Tribunals, Courts and Enforcement Act 2007;
- (f) “writ of execution” includes—
  - (i) a writ of possession;
  - (ii) a writ of delivery;
  - (iii) a writ of sequestration;
  - (iv) a writ of fieri facias de bonis ecclesiasticis,

and any further writ in favour of any such writs, but does not include a writ of control.

(2) [Omitted]

## **Applications for registration**

### **74.3**

- (1) This Section provides rules about applications under –
- (a) section 9 of the 1920 Act, in respect of judgments to which Part II of that Act applies;
  - (b) section 2 of the 1933 Act, in respect of judgments to which Part I of that Act applies;
  - (c) section 4B of the 1982 Act;
  - (d) [Omitted]
  - (e) [section 4C of the 1982 Act](#);

for the registration of foreign judgments for enforcement in England and Wales.

- (2) Applications –
- (a) must be made to the High Court; and
  - (b) may be made without notice.

## **Evidence in support**

### **74.4**

- (1) An application for registration of a judgment under the 1920, 1933 or 1982 Act must be supported by written evidence exhibiting –
- (a) the judgment or a verified or certified or otherwise authenticated copy of it; and
  - (b) where the judgment is not in English, a translation of it into English –
    - (i) certified by a notary public or other qualified person; or

- (ii) accompanied by written evidence confirming that the translation is accurate.

(2) The written evidence in support of the application must state –

- (a) the name of the judgment creditor and his address for service within the jurisdiction;
- (b) the name of the judgment debtor and his address or place of business, if known;
- (c) the grounds on which the judgment creditor is entitled to enforce the judgment;
- (d) in the case of a money judgment, the amount in respect of which it remains unsatisfied; and
- (e) where interest is recoverable on the judgment under the law of the State of origin –
  - (i) the amount of interest which has accrued up to the date of the application, or
  - (ii) the rate of interest, the date from which it is recoverable, and the date on which it ceases to accrue.

(3) Written evidence in support of an application under the 1920 Act must also state that the judgment is not a judgment –

- (a) which under section 9 of that Act may not be ordered to be registered; or
- (b) to which section 5 of the Protection of Trading Interests Act 1980 applies.

(4) Written evidence in support of an application under the 1933 Act must also

–

- (a) state that the judgment is a money judgment;
- (b) confirm that it can be enforced by execution in the State of origin;
- (c) confirm that the registration could not be set aside under section 4 of that Act;

- (d) confirm that the judgment is not a judgment to which section 5 of the Protection of Trading Interests Act 1980 applies;
  - (e) where the judgment contains different provisions, some but not all of which can be registered for enforcement, set out those provisions in respect of which it is sought to register the judgment; and
  - (f) be accompanied by any further evidence as to –
    - (i) the enforceability of the judgment in the State of origin, and
    - (ii) the law of that State under which any interest has become due under the judgment,which may be required under the relevant Order in Council extending Part I of the 1933 Act to that State.
- (5) Written evidence in support of an application under the 1982 Act must also exhibit –
- (a) documents which show that, under the law of the State of origin, the judgment is enforceable on the judgment debtor and has been served;
  - (b) in the case of a judgment in default, a document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document; and
  - (c) where appropriate, a document showing that the judgment creditor is in receipt of legal aid in the State of origin.
- (5A) Written evidence in support of an application under section 4B of the 1982 Act (registration and enforcement of judgments under the 2005 Hague Convention) must also –
- (a) confirm that the judgment:
    - (i) meets the condition in Article 8(3) of the 2005 Hague Convention;
    - (ii) otherwise meets the requirements for recognition or enforcement under the 2005 Hague Convention; and
  - (b) include any other evidence required by Article 13 of the 2005 Hague Convention.

(6) [Omitted]

(7) Written evidence in support of an application under section 4C of the 1982 Act (registration and enforcement of judgments under the 2019 Hague Convention) must also -

(a) confirm that the judgment:

(i) meets the condition in Article 4(3) of the 2019 Hague Convention;

(ii) meets at least one condition in Article 5 or 6 of the 2019 Hague Convention; and

(iii) otherwise meets the requirements for recognition or enforcement under the 2019 Hague Convention; and

(b) include any other evidence required by Article 12 of the 2019 Hague Convention.

## **Security for costs**

### **74.5**

1. Subject to paragraphs (2) and (3), section II of Part 25 applies to an application for security for the costs of –

(a) the application for registration;

(b) any proceedings brought to set aside the registration; ~~and~~

~~(c) any appeal against the granting of the registration.~~

as if the judgment creditor were a claimant.

(2) A judgment creditor making an application under the 1982 Act may not be required to give security solely on the ground that he is resident out of the jurisdiction.

(3) Paragraph (1) does not apply to an application under the 1933 Act where the relevant Order in Council otherwise provides.

## Registration orders

### 74.6

- (1) An order granting permission to register a judgment ('a registration order') must be drawn up by the judgment creditor and served on the judgment debtor –
  - (a) by delivering it to the judgment debtor personally;
  - (b) by any of the methods of service permitted under the Companies Act 2006; or
  - (c) in such other manner as the court may direct.
  
- (2) Permission is not required to serve a registration order out of the jurisdiction, and rules 6.40, 6.42, 6.43 and 6.46 apply to such an order as they apply to a claim form.
  
- (3) A registration order must state –
  - (a) full particulars of the judgment registered;
  - (b) the name of the judgment creditor and his address for service within the jurisdiction;
  - (c) the right of the judgment debtor –
    - (i) in the case of registration following an application under the 1920-~~or Act~~, the 1933 Act or the 1982 Act, to apply to have the registration set aside;
    - (ii) ~~in the case of registration following an application under the 1982 Act, to appeal against the registration order;~~
  - (d) the period within which such an application-~~or appeal~~ may be made; and
  - (e) that no measures of enforcement will be taken before the end of that period, other than measures ordered by the court to preserve the property of the judgment debtor.

Applications to set aside a registration decision

## 74.7

- (1) An application to set aside a decision on a registration application under the 1920 Act, ~~or~~ the 1933 Act or the 1982 Act must be made within the period set out in the ~~registration order~~ decision.
- (2) The court may extend that period; but an application for such an extension must be made before the end of the period as originally fixed or as subsequently extended.
- (3) The court hearing the application may order any issue between the judgment creditor and the judgment debtor to be tried.

## Appeals

### 74.8

- ~~(1) An appeal against the granting or the refusal of registration under the 1982 Act must be made in accordance with Part 52, subject to the following provisions of this rule.~~
- ~~(2) Permission is not required—
  - (a) to appeal; or
  - (b) to put in evidence.~~
- ~~(3) If—
  - (a) the judgment debtor is not domiciled within a Contracting State, and
  - (b) an application to extend the time for appealing is made within two months of service of the registration orderthe court may extend the period for filing an appellant's notice against the order granting registration, but not on grounds of distance.~~
- ~~(4) The appellant's notice must be served—
  - (a) where the appeal is against the granting of registration, within—~~



- ~~(i) one month; or~~
- ~~(ii) where service is to be effected on a party not domiciled within the jurisdiction, two months of service of the registration order;~~
- ~~(b) where the appeal is against the refusal of registration, within one month of the decision on the application for registration.~~

## Enforcement

### 74.9

- (1) Omitted
- (2) No steps may be taken to enforce the judgment—
  - (a) before the end of the period specified in accordance with rule 74.6(3)(d), or that period as extended by the court; or
  - (b) where there is an application under rule 74.7 ~~or an appeal under rule 74.3~~, until the application ~~or appeal~~ has been determined.
- (3) Any party wishing to enforce a judgment must file evidence of the service on the judgment debtor of—
  - (a) the registration order; and
  - (b) any other relevant order of the court.
- (4) Nothing in this rule prevents the court from making orders to preserve the property of the judgment debtor pending final determination of any issue relating to the enforcement of the judgment.

## Recognition

### 74.10

- (1) Registration of a judgment on an application made under section 4B or 4C of the 1982 Act serves as a decision that the judgment is recognised for the

purposes of the 2005 Hague Convention or the 2019 Hague Convention, respectively.

- (2) An application for recognition of a judgment made under section 4B or 4C of the 1982 Act is governed by the same rules as an application for registration of a judgment ~~under the 2005 Hague Convention~~, except that rule 74.4(5)(a) and (c) do not apply.

### **Authentic instruments and court settlements**

#### **74.11**

The rules governing the registration of judgments under the 1982 Act apply as appropriate and with any necessary modifications for the enforcement of court settlements which are subject to article 12 of the 2005 Hague Convention or article 11 of the 2019 Hague Convention.

## II ENFORCEMENT IN FOREIGN COUNTRIES OF JUDGMENTS OF THE HIGH COURT AND THE COUNTY COURT

### **Application for a certified copy of a judgment**

#### **74.12**

- (1) This Section applies to applications –
- (a) to the High Court under section 10 of the 1920 Act;
  - (b) to the High Court or to the County Court under section 10 of the 1933 Act; or
  - (c) to the High Court or to the County Court under section 12 of the 1982 Act
- (2) A judgment creditor who wishes to enforce in a foreign country a judgment obtained in the High Court or in the County Court must apply for a certified copy of the judgment.

(3) The application may be made without notice.

## **Evidence in support**

### **74.13**

(1) The application must be supported by written evidence exhibiting copies of

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- (a) the claim form in the proceedings in which judgment was given;
- (b) evidence that it was served on the defendant;
- (c) the statements of case; and
- (d) where relevant, a document showing that for those proceedings the applicant was an assisted person or an LSC funded client, as defined in rule 43.2(1)(h) and (i).

(2) The written evidence must –

- (a) identify the grounds on which the judgment was obtained;
- (b) state whether the defendant objected to the jurisdiction and, if he did, the grounds of his objection;
- (c) show that the judgment –
  - (i) has been served in accordance with Part 6 and rule 40.4, and
  - (ii) is not subject to a stay of execution;
- (d) state –
  - (i) the date on which the time for appealing expired or will expire;
  - (ii) whether an appeal notice has been filed;
  - (iii) the status of any application for permission to appeal; and
  - (iv) whether an appeal is pending;

- (e) state whether the judgment provides for the payment of a sum of money, and if so, the amount in respect of which it remains unsatisfied;
- (f) state whether interest is recoverable on the judgment, and if so, either
  - 
  - (i) the amount of interest which has accrued up to the date of the application, or
  - (ii) the rate of interest, the date from which it is recoverable, and the date on which it ceases to accrue.

### III ENFORCEMENT OF UNITED KINGDOM JUDGMENTS IN OTHER PARTS OF THE UNITED KINGDOM

#### **Interpretation**

##### **74.14**

In this Section –

- (a) ‘money provision’ means a provision for the payment of one or more sums of money in a judgment whose enforcement is governed by section 18 of, and Schedule 6 to, the 1982 Act; and
- (b) ‘non-money provision’ means a provision for any relief or remedy not requiring payment of a sum of money in a judgment whose enforcement is governed by section 18 of, and Schedule 7 to, the 1982 Act.

#### **Registration of money judgments in the High Court**

##### **74.15**

- (1) This rule applies to applications to the High Court under paragraph 5 of Schedule 6 to the 1982 Act for the registration of a certificate for the enforcement of the money provisions of a judgment –
  - (a) which has been given by a court in another part of the United Kingdom, and

- (b) to which section 18 of that Act applies.
- (2) The certificate must within six months of the date of its issue be filed in the Central Office of the Senior Courts, together with a copy certified by written evidence to be a true copy.

## **Registration of non-money judgments in the High Court**

### **74.16**

- (1) This rule applies to applications to the High Court under paragraph 5 of Schedule 7 to the 1982 Act for the registration for enforcement of the non-money provisions of a judgment –
- (a) which has been given by a court in another part of the United Kingdom, and
  - (b) to which section 18 of that Act applies.
- (2) An application under paragraph (1) may be made without notice.
- (3) An application under paragraph (1) must be accompanied -
- (a) by a certified copy of the judgment issued under Schedule 7 to the 1982 Act; and
  - (b) by a certificate, issued not more than six months before the date of the application, stating that the conditions set out in paragraph 3 of Schedule 7 are satisfied in relation to the judgment.
- (4) Rule 74.6 applies to judgments registered under Schedule 7 to the 1982 Act as it applies to judgments registered under section 4 of that Act.
- (5) Rule 74.7 applies to applications to set aside the registration of a judgment under paragraph 9 of Schedule 7 to the 1982 Act as it applies to applications to set aside registrations under the 1920 and 1933 Acts.

## **Certificates of High Court and County Court money judgments**

### **74.17**

- (1) This rule applies to applications under paragraph 2 of Schedule 6 to the 1982 Act for a certificate to enable the money provisions of a judgment of the High Court or of the County Court to be enforced in another part of the United Kingdom.
- (2) The judgment creditor may apply for a certificate by filing at the court where the judgment was given or has been entered written evidence stating –
  - (a) the name and address of the judgment creditor and, if known, of the judgment debtor;
  - (b) the sums payable and unsatisfied under the money provisions of the judgment;
  - (c) where interest is recoverable on the judgment, either –
    - (i) the amount of interest which has accrued up to the date of the application, or
    - (ii) the rate of interest, the date from which it is recoverable, and the date on which it ceases to accrue;
  - (d) that the judgment is not stayed;
  - (e) the date on which the time for appealing expired or will expire;
  - (f) whether an appeal notice has been filed;
  - (g) the status of any application for permission to appeal; and
  - (h) whether an appeal is pending.

## **Certified copies of High Court and County Court non-money judgments**

### **74.18**

- (1) This rule applies to applications under paragraph 2 of Schedule 7 to the 1982 Act for a certified copy of a judgment of the High Court or of the County Court to which section 18 of the Act applies and which contains

non-money provisions for enforcement in another part of the United Kingdom.

- (2) An application under paragraph (1) may be made without notice.
- (3) The applicant may apply for a certified copy of a judgment by filing at the court where the judgment was given or has been entered written evidence stating –
- (a) full particulars of the judgment;
  - (b) the name and address of the judgment creditor and, if known, of the judgment debtor;
  - (c) that the judgment is not stayed;
  - (d) the date on which the time for appealing expired or will expire;
  - (e) whether an appeal notice has been filed;
  - (f) the status of any application for permission to appeal; and
  - (g) whether an appeal is pending.

***Proposed transitional provision for the CPR amending SI:***

Transitional and saving provision – Part 74

- (1) Where an application for registration or recognition of–
- (a) a judgment given by a court of a Contracting State; or
  - (b) a court settlement approved by or concluded before a court of a Contracting State
- was made under the 2005 Hague Convention before the date on which these Rules come into force, Part 74 applies to proceedings relating to that application as if the changes made by these Rules had not been made.
- (2) In paragraph (1) –
- “Contracting State” means a State bound by the 2005 Hague Convention;  
and

“2005 Hague Convention” means the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague.