

## Consultation Annex ii

### Draft amendments to Practice Directions

## PRACTICE DIRECTION 74A - ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

### SECTION I ENFORCEMENT OF JUDGMENTS

#### **Meaning of 'judgment'**

- 2** In rule 74.2(1)(c), the definition of 'judgment' is 'subject to any other enactment'. Such provisions include –
- (1) section 9(1) of the 1920 Act, which limits enforcement under that Act to judgments of superior courts;
  - (2) section 1(1) of the 1933 Act, which limits enforcement under that Act to judgments of those courts specified in the relevant Order in Council;
  - (3) section 1(2) of the 1933 Act, which limits enforcement under that Act to money judgments;
  - (4) section 15 (1) of the 1982 Act, which limits enforcement under Part I of that Act to judgments within the meaning given by Article 4(1) of the 2005 Hague Convention and Article 3(1) of the 2019 Hague Convention.

#### **Registers**

- 3** There will be kept in the Central Office of the Senior Courts at the Royal Courts of Justice, under the direction of the Senior Master –
- (1) registers of foreign judgments ordered by the High Court to be enforced following applications under –

- (a) section 9 of the 1920 Act;
  - (b) section 2 of the 1933 Act;
  - (c) sections 4 ~~and~~, 4B and 4C of the 1982 Act;
  - (d) (omitted)
  - (e) the Lugano Convention.
- (2) registers of certificates issued for the enforcement in foreign countries of High Court judgments under the 1920, 1933 and 1982 Acts, and under article 13 of the 2005 Hague Convention, [article 12 of the 2019 Hague Convention](#), article 53 of the Judgments Regulation and article 54 of the Lugano Convention;
- (3) a register of certificates filed in the Central Office of the High Court under rule 74.15(2) for the enforcement of money judgments given by the courts of Scotland or Northern Ireland;
- (4) a register of certificates issued under rule 74.16(3) for the enforcement of non-money judgments given by the courts of Scotland or Northern Ireland;
- (5) registers of certificates issued under rules 74.17 and 74.18 for the enforcement of High Court judgments in Scotland or Northern Ireland under Schedule 6 or Schedule 7 to the 1982 Act; and
- (6) a register of Community judgments and Euratom inspection orders ordered to be registered under article 3 of the European Communities (Enforcement of Community Judgments) Order 1972.

**Enforcement of foreign judgments pursuant to the Judgments Regulation and registration of other judgments for enforcement**

**4.1** Enforcement under rule 74.3A of foreign judgments pursuant to the Judgments Regulation (for which registration is no longer required), and applications for –

- (1) foreign judgments under rule 74.3;
- (2) judgments of courts in Scotland or Northern Ireland under rule 74.15 or 74.16; and
- (3) European Community judgments under rule 74.20,

are assigned to the King's Bench Division and may be heard by a Master.

### **Making an application**

**4.2** An application under rule 74.12 for a certified copy of a High Court or county court judgment for enforcement abroad must be made –

- (1) in the case of a judgment given in the Chancery Division or the Kings Bench Division of the High Court, to a Master, Registrar or district judge;
- (2) in the case of a judgment given in the Family Division of the High Court, to a district judge of that Division;
- (3) in the case of a county court judgment, to a district judge, unless Practice Direction 2E applies.

**4.3** An application under rule 74.17 or 74.18 for a certificate or a certified copy of a High Court or county court judgment for enforcement in Scotland or Northern Ireland must be made –

- (1) in the case of a judgment given in the Chancery Division or the King's Bench Division of the High Court, to a Master, Registrar or district judge;
- (2) in the case of a judgment given in the Family Division of the High Court, to a district judge of that Division;
- (3) in the case of a county court judgment, to a district judge, unless Practice Direction 2E applies.

**4.4** The following applications must be made under Part 23 –

- (1) applications under rule 74.3 for the registration of a judgment;
- (2) applications under rule 74.7 to set aside the registration of a judgment;
- (2A) applications under rules 74.7A for refusal of recognition of a judgment under the Judgments Regulation;
- (2B) applications under rule 74.7B for relief against enforcement under article 44 of the Judgments Regulation;
- (2C) applications under rule 74.7C for suspension of proceedings under article 38 of the Judgments Regulation;
- (2D) applications under rule 74.11A for an adaptation order under article 54 of the Judgments Regulation;
- (3) applications under rule 74.12 for a certified copy of a judgment;
- (4) applications under section III for a certificate for enforcement of a judgment;

- (5) applications under rule 74.20 for the registration of a Community judgment;
- (6) applications under rule 74.23 to vary or cancel the registration of a Community judgment; and
- (7) applications under rule 74.25 for the registration of an order of the European Court that the enforcement of a registered Community judgment should be suspended.

### **Applications under the 1920 Act or 1933 Act**

- 5** Foreign judgments are enforceable in England and Wales under the 1920 or 1933 Act where there is an agreement on the reciprocal enforcement of judgments between the United Kingdom and the country in which the judgment was given. Such an agreement may contain particular provisions governing the enforcement of judgments (for example limiting the categories of judgments which are enforceable, or the courts whose judgments are enforceable). Any such specific limitations will be listed in the Order in Council giving effect in the United Kingdom to the agreement in question, and the rules in Section I of Part 74 will take effect subject to such limitations.

### **Procedure for enforcement of a judgment under the Judgments Regulation: rule 74.4(6)**

- 6.1** Where a judgment is to be enforced in a Regulation State, the Judgments Regulation applies.
- 6.2** (omitted)

- 6.3** The Judgments Regulation may be found on the EU legislation website at <http://eur-lex.europa.eu>. The form for a certificate under the Judgments Regulation may be found at Annex I to the Regulation.
- 6.4** Section 2, subsection 2 of Section 3 and Section 4 of Chapter III of the Judgments Regulation (in particular articles 41, 42, 43 and 53 and Annex I) set out the documents which the judgment creditor must provide to the court for the purposes of enforcement. Completion of the certificate in the form of Annex I requires confirmation whether Article 43.1 has been complied with.
- 6.5** The Judgments Regulation is supplemented by the Civil Jurisdiction and Judgments Order 2001, SI 2001 No. 3929. The Order also makes amendments, in respect of that Regulation, to the Civil Jurisdiction and Judgments Act 1982.

**Evidence in support of an application under the Lugano Convention: rule 74(4)**

- 6A.1** Where a judgment is to be recognised or enforced in a Contracting State which is a State bound by the Lugano Convention, that Convention applies.
- 6A.2** As a consequence of article 38(2) of the Lugano Convention the provisions of Title III of that Convention relating to declaring judgments enforceable are the equivalent, in the United Kingdom, of provisions relating to registering judgments for enforcement.
- 6A.3** Title III of, and Annex V to, the Lugano Convention are annexed to this Practice Direction. They were originally published in the official languages of the European Community in the Official Journal of the European Communities by the Office for Official Publications of the European Communities.

**6A.4** Sections 2 and 3 of Title III of the Lugano Convention (in particular articles 40, 53, 54 and annex V) set out the evidence needed in support of an application.

**6A.5** The Civil Jurisdiction and Judgments (England and Wales and Northern Ireland) Regulations 2009 make amendments to the Civil Jurisdiction and Judgments Act 1982 in respect of the Lugano Convention.

**Rule 74.7A – Applications for refusal of recognition or enforcement under the Judgments regulation.**

**6B.1** An application must be accompanied by a copy of the judgment, any other documents relied upon and any necessary translations, and be supported by written evidence showing why the court should find that one of the grounds referred to in article 45 of the Judgments Regulation exists.

**Rule 74.7C – Applications for suspension of proceedings in which a judgment is invoked under article 38 of the Judgments Regulation**

**6C.1** An application for suspension of proceedings on either of the grounds set out in article 38(a) or (b) of the Judgments Regulation must be accompanied by a copy of the judgment, any other documents relied upon and any necessary translations, and be supported by written evidence of the challenge referred to in article 38(a) or application referred to in article 38(b) as the case may be.

**6C.2** Where the application is granted, the court must send a sealed copy of the judgment to the person making the application. The applicant must serve a sealed copy of that order as provided in rule 74.7C(3). Where the

application is refused, the court must give reasons for the refusal and may give further directions.

**Rule 74.12 – Applications for certificates of judgments of the courts of England and Wales under article 53 of the Judgments Regulation**

**6D.1** An application under article 53 of the Judgments Regulation for a certificate of a High Court or County Court judgment for enforcement in another Regulation State must be made as indicated in paragraph 4.2 and must be accompanied by a draft certificate in the form in Annex I to the Judgments Regulation.

**6D.2** Where the application is granted, the court must send a sealed copy of the judgment to the person making the application. Where the application is refused, the court must give reasons for the refusal and may give further directions.

**6E** Evidence in support of an application under section 4B of the 1982 Act (Registration and enforcement of judgments under the 2005 Hague Convention).

**6E.1** Where a judgment is to be recognised or enforced in a Contracting State which is a State bound by the 2005 Hague Convention, that Convention applies.

**6E.2** The text of the 2005 Hague Convention is available at: <https://www.hcch.net/> and Chapter III contains the provisions on recognition and enforcement.

**6E.3** Article 13 of the 2005 Hague Convention sets out the documents which need to be produced by a party seeking recognition or enforcement of a judgment.



**6E.4** The Civil Jurisdiction and Judgments (Hague Convention on Choice of Court Agreements 2005) Regulations 2015 (SI 2015/1644) make amendments to the Civil Jurisdiction and Judgments Act 1982 and the CPR in respect of the 2005 Hague Convention.

### **Certified copies of judgments issued under rule 74.12**

- 7.1** In an application by a judgment creditor under rule 74.12 for the enforcement abroad of a High Court judgment, the certified copy of the judgment will be an office copy, and will be accompanied by a certificate signed by a judge. The judgment and certificate will be sealed with the Seal of the Senior Courts.
- 7.2** In an application by a judgment creditor under rule 74.12 for the enforcement abroad of a County Court judgment, the certified copy will be a sealed copy, and will be accompanied by a certificate signed by a judge or, where Practice Direction 2E applies, a legal adviser.
- 7.3** Subject to paragraph 7.6, in applications under the 1920, 1933 or 1982 Acts, the certificate will be in Form 110, and will have annexed to it a copy of the claim form by which the proceedings were begun.
- 7.4** In an application under the Judgments Regulation, the certificate will be in the form of Annex V to the Regulation.
- 7.5** In an application under the Lugano Convention, the certificate will be in the form of Annex V to the Convention.
- 7.6** In an application under section 12 of the 1982 Act relating to recognition and enforcement of a judgment under the 2005 Hague Convention, the certificate will be in the form recommended and published by the Hague

Conference on Private International Law and annexed to the final act of the twentieth session of the Hague Conference on Private International law, which is available at: <http://www.hcch.net/>.

**7.7** In an application under section 12 of the 1982 Act relating to recognition and enforcement of a judgment under the 2019 Hague Convention, the certificate will be in the form recommended and published by the Hague Conference on Private International Law, which is available at: <http://www.hcch.net/>.

#### **Certificates under section III of Part 74**

- 8.1** A certificate of a money judgment of a court in Scotland or Northern Ireland must be filed for enforcement under rule 74.15(2) in the Action Department of the Central Office of the Senior Courts, Royal Courts of Justice, Strand, London WC2A 2LL. The copy will be sealed by a court officer before being returned to the applicant.
- 8.2** A certificate issued under rule 74.17 for the enforcement in Scotland or Northern Ireland of a money judgment of the High Court or of a county court will be in Form 111.
- 8.3** In an application by a judgment creditor under rule 74.18 for the enforcement in Scotland or Northern Ireland of a non-money judgment of the High Court or of a county court, the certified copy of the judgment will be a sealed copy to which will be annexed a certificate in Form 112.

#### **Material additional to section IV of Part 74**

- 9.1** Enforcement of Community judgments and of Euratom inspection orders is governed by the European Communities (Enforcement of Community Judgments) Order 1972, SI 1972 No. 1590.

- 9.2** The Treaty establishing the European Community is the Treaty establishing the European Economic Community (Rome, 1957); relevant amendments are made by the Treaty of Amsterdam (1997, Cm. 3780).
- 9.3** The text of the Protocol of 3 June 1971 on the interpretation by the European Court of the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters is set out in Schedule 2 to the Civil Jurisdiction and Judgments Act 1982.
- 9.4** The text of the Protocol of 19 December 1988 on the interpretation by the European Court of the Convention of 19 June 1980 on the Law applicable to Contractual Obligations is set out in Schedule 3 to the Contracts (Applicable Law) Act 1990. After the commencement on 17 December 2009 of EC Regulation 593/2008 ('the Rome I Regulation') this Convention and Protocol will only apply to contracts concluded before that date.