

## PRACTICE DIRECTION 31A

# REGISTRATION OF ORDERS UNDER THE COUNCIL REGULATION, THE CIVIL PARTNERSHIP (JURISDICTION AND RECOGNITION OF JUDGMENTS) REGULATIONS 2005 AND UNDER THE 1996 HAGUE CONVENTION

**This Practice Direction supplements FPR Part 31**

## **Form of application**

- 1.1** An application under rule 31.4 must be made using the Part 19 procedure, except that the provisions of rules 31.8 to 31.14 and of this Practice Direction shall apply in place of rules 19.4 to 19.9.
- 1.2** Where the application is for recognition only of an order, it should be made clear that the application does not extend to registration for enforcement.

## **Evidence in support of all applications for registration, recognition or non-recognition**

- 2.1** The requirements for information and evidence for applications differ according to whether the application is made under the Council Regulation, the Jurisdiction and Recognition of Judgments Regulations, or the 1996 Hague Convention.
- 2.2** All applications to which rule 31.4(2) applies must be supported by a statement that is sworn to be true or an affidavit, exhibiting the judgment, or a verified, certified or otherwise duly authenticated copy of the judgment. In the case of an application under the Jurisdiction and Recognition of Judgments Regulations or under the 1996 Hague Convention, a translation of the judgment should be supplied.
- 2.3** Where any other document required by this Practice Direction or by direction of the court under rule 31.5 is not in English, the applicant must supply a translation of that document into English certified by a notary public or a person qualified for the purpose, or accompanied by witness statement or affidavit confirming that the translation is accurate.

## **Evidence required in support of application for registration, recognition or non-recognition of a judgment under the Council Regulation**

- 3.1** An application for a judgment to be registered, recognised or not recognised under the Council Regulation must be accompanied by a witness statement or an affidavit exhibiting the following documents and giving the information required by 3.2 or 3.3 below, as appropriate.
- 3.2** In the case of an application for recognition or registration –

- (a) the certificate in the form set out in Annex I or Annex II of the Council Regulation, issued by the Member State in which judgment was given;
- (b) in the case of a judgment given in default, the documents referred to in Article 37(2);
- (c) whether the judgment provides for the payment of a sum or sums of money;
- (d) whether interest is recoverable on the judgment or part of the judgment in accordance with the law of the State in which the judgment was given, and if that is the case, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue;
- (e) an address within the jurisdiction of the court for service of process on the party making the application and stating, in so far as is known to the applicant, the name and usual or last known address or place of business of the person against whom judgment was given; and
- (f) where appropriate, whether Article 56 has been complied with, and the identity and address of the authority or authorities from whom consent has been obtained, together with evidence of that consent.

**3.3** In the case of an application for an order that a judgment should not be recognised under Article 21(3) –

- (a) the certificate referred to at paragraph 3.2 (a);
- (b) in relation to the documents identified at paragraph 3.2 ( b), those documents or a statement that no such service or acceptance occurred if that is the case;
- (c) an address within the jurisdiction of the court for service of process on the applicant and stating, in so far as is known to the applicant, the name and usual or last known address or place of business of the person in whose favour judgment was given; and
- (d) a statement of the ground or grounds under Articles 22 or 23 (as the case may be) on which it is requested that the judgment should not be recognised, the reasons why the applicant asserts that such ground or grounds is, or are, made out, and any documentary evidence on which the applicant relies.

### **Evidence required in support of an application for registration, recognition or non-recognition of a judgment under the 1996 Hague Convention**

**4.1** An application for an order for a judgment to be registered under Article 26 or not recognised under Article 24 of the 1996 Hague Convention must be accompanied by a witness statement or affidavit exhibiting the following documents and giving the information required by 4.2, 4.3 or 4.4 below as appropriate.

**4.2** In the case of an application for registration –

- (a) those documents necessary to show that the judgment is enforceable according to the law of the Contracting State in which it was given;
- (b) a description of the opportunities provided by the authority which gave the judgment in question for the child to be heard, except where that judgment was given in a case of urgency;
- (c) where the judgment was given in a case of urgency, a statement as to the circumstances of the urgency that led to the child not having the opportunity to be heard;

- (d) details of any measures taken in the non-Contracting State of the habitual residence of the child, if applicable, specifying the nature and effect of the measure, and the date on which it was taken;
- (e) in as far as not apparent from the copy of the judgment provided, a statement of the grounds on which the authority which gave the judgment based its jurisdiction, together with any documentary evidence in support of that statement;
- (f) where appropriate, a statement regarding whether Article 33 of the 1996 Hague Convention has been complied with, and the identity and address of the authority or authorities from which consent has been obtained, together with evidence of that consent; and
- (g) the information referred to at 3.2 (c) to (e) above.

**4.3** In the case of an application for an order that a judgment should not be recognised –

- (a) a statement of the ground or grounds under Article 23 of the 1996 Hague Convention on which it is requested that the judgment be not recognised, the reasons why the applicant asserts that such ground or grounds is or are made out, and any documentary evidence on which the Applicant relies; and
- (b) an address within the jurisdiction of the court for service of process on the applicant and stating, in so far as is known to the applicant, the name and usual or last known address or place of business of the person in whose favour judgment was given.

**4.4** Where it is sought to apply for recognition only of a judgment under the 1996 Hague Convention, the provisions of paragraph 4.2 apply with the exception that the applicant is not required to produce the document referred to in subparagraph 4.2 (a).

### **Evidence required in support of an application for recognition or non-recognition of a judgment under the Jurisdiction and Recognition of Judgments Regulations**

**5.1** An application for recognition of a judgment under regulation 7 of the Jurisdiction and Recognition of Judgments Regulations or for non-recognition of a judgment under regulation 8 must be accompanied by a witness statement or affidavit exhibiting the following documents and giving the information at 5.2 or 5.3 below, as appropriate.

**5.2** In the case of an application for recognition of a judgment –

- (a) where applicable, details of any decision determining the question of the substance or validity of the civil partnership previously given by a court of civil jurisdiction in England and Wales, or by a court elsewhere;
- (b) where the judgment was obtained otherwise than by means of proceedings –
  - (i) an official document certifying that the judgment is effective under the law of the country in which it was obtained;
  - (ii) where either civil partner was domiciled in another country from that in which the judgment was obtained at the relevant date, an official document certifying that the judgment is recognised as valid under the law of that country; or
  - (iii) a verified, certified or otherwise duly authenticated copy of the document at (i) or (ii) above, as appropriate;
- (c) in relation to a judgment obtained by means of proceedings and given in default, the original or a certified true copy of the document which establishes that the party who did not respond

was served with the document instituting the proceedings or with an equivalent document, or any document indicating that the respondent has accepted the judgment unequivocally; and

(d) the information referred to at paragraph 3.2 (c) to (e) above.

**5.3** In the case of an application for non-recognition of a judgment –

(a) an address within the jurisdiction of the court for service of process on the applicant and stating, in so far as is known to the applicant, the name and usual or last known address or place of business of the person in whose favour judgment was given;

(b) a statement of the ground or grounds under regulation 8 of the Jurisdiction and Recognition of Judgments Regulations on which it is requested that the judgment should not be recognised together with any documentary evidence on which the applicant relies; and

(c) where the judgment was obtained by means of proceedings, the document referred to at paragraph 5.2(c) or a statement that no such service or acceptance occurred if that is the case.

### **Evidence in support of application for a certificate under Articles 39, 41 or 42 of the Council Regulation, or for a certified copy of a judgment**

**6.1** The procedure described in the following paragraphs should be used where the application for the certified copy of the judgment or relevant certificate under the Council Regulation has not been made at the conclusion of the proceedings to which it relates.

**6.2** An application for a certified copy of a judgment, or for a certificate under Articles 39, 41 or 42 of the Council Regulation must be made by witness statement or affidavit, containing the information and attaching the documents required under paragraph 6.3, and paragraphs 6.4, 6.5 or 6.6 below, as appropriate.

**6.3** All applications must –

(a) provide details of the proceedings in which the judgment was obtained;

(b) attach a copy of the application by which the proceedings were begun;

(c) attach a copy of all statements of case filed in the proceedings; and

(d) state –

(i) whether the judgment provides for the payment of a sum of money; and

(ii) whether interest is recoverable on the judgment or part of it and if so, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue.

Further, where the application relates to the Council Regulation, the applicant must attach a document showing that he or she benefitted from legal aid in the proceedings to which the judgment relates, if that is the case.

**6.4** An application for a certified copy of the judgment and a certificate under Article 41 or 42 of the Council Regulation must –

(a) contain a statement of whether the certificate is sought under Article 41 or Article 42;

(b) attach a document evidencing the service of the application by which the proceedings were begun on all respondents, and if no such service occurred, details of all opportunities provided to each respondent to put their case before the court;

- (c) provide information regarding the age of the child at the time of the judgment and the opportunities given during the proceedings, if any, for the child's wishes and feelings to be ascertained;
  - (d) state the full names, addresses and dates and places of birth (where available) of all persons holding parental responsibility in relation to the child or children to whom the judgment relates; and
  - (e) state the full names and dates of birth of each child to whom the judgment relates.
- 6.5** An application for a certified copy of the judgment and a certificate under Article 39 of the Council Regulation must –
- (a) state whether the certificate sought relates to a parental responsibility matter or a matrimonial matter;
  - (b) in relation to a parental responsibility matter, attach evidence that the judgment has been served on the respondent;
  - (c) in the case of a judgment given in default, attach a document which establishes that the respondent was served with the petition or application by which the proceedings were commenced, or a document indicating that the respondent accepted the judgment unequivocally;
  - (d) state that the time for appealing has expired, or give the date on which it will expire, as appropriate, and state whether a notice of appeal against the judgment has been given;
  - (e) in relation to a matrimonial matter, give the full name, address, country and place of birth, and date of birth of each party, and the country, place and date of the marriage;
  - (f) in relation to a parental responsibility matter, give the full name, address, place and date of birth of each person who holds parental responsibility;
  - (g) as appropriate, give the name, address, and date and place of birth of the person with access rights, or to whom the child is to be returned.
- 6.6** An application for a certified copy of a judgment for the purposes of recognition and enforcement of the judgment under the 1996 Hague Convention must –
- (a) provide a statement of the grounds on which the court based its jurisdiction to make the orders in question;
  - (b) indicate the age of the child at the time of the judgment and the measures taken, if any, for the child's wishes and feelings to be ascertained; and
  - (c) indicate which persons were provided with notice of the proceedings and, where such persons were served with the proceedings, attach evidence of such service.

