

ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

Contents of this Part

Rule 74.1 Scope of this Part and interpretation

I ENFORCEMENT IN ENGLAND AND WALES OF JUDGMENTS OF FOREIGN COURTS

Rule 74.2 Interpretation

Rule 74.3 Applications for registration

Rule 74.4 Evidence in support

Rule 74.5 Security for costs

Rule 74.6 Registration orders

Rule 74.7 Applications to set aside registration

Rule 74.8 Appeals

Rule 74.9 Enforcement

Rule 74.10 Recognition

Rule 74.11 Authentic instruments and court settlements

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

Rule 74.12 Application for a certified copy of a judgment

Rule 74.13 Evidence in support

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

Rule 74.14 Interpretation

Rule 74.15 Registration of money judgments in the High Court

Rule 74.16 Registration of non-money judgments in the High Court

Rule 74.17 Certificates of High Court and county court money judgments

Rule 74.18 Certified copies of High Court and county court non-money judgments

IV ENFORCEMENT IN ENGLAND AND WALES OF EUROPEAN COMMUNITY JUDGMENTS

Rule 74.19 Interpretation

Rule 74.20 Application for registration of a Community judgment

Rule 74.21 Evidence in support

Rule 74.22 Registration orders

Rule 74.23 Application to vary or cancel registration

Rule 74.24 Enforcement

Rule 74.25 Application for registration of suspension order

Rule 74.26 Registration and enforcement of a Euratom inspection order

V EUROPEAN ENFORCEMENT ORDERS

Rule 74.27 Interpretation

- Rule 74.28 Certification of Judgments of the Courts of England and Wales
- Rule 74.29 Applications for a certificate of lack or limitation of enforceability
- Rule 74.30 Applications for rectification or withdrawal
- Rule 74.31 Enforcement of European Enforcement Orders in England and Wales
- Rule 74.32 Refusal of Enforcement
- Rule 74.33 Stay of or limitation on enforcement
-

74.1 Scope of this Part and interpretation

- (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 county courts.
- (3) Section III applies to the enforcement of United Kingdom judgments in other parts of the United Kingdom.
- (4) Section IV applies to the enforcement in England and Wales of European Community judgments and Euratom inspection orders.
- (4A) Section V applies to –
- (a) the certification of judgments and court settlements in England and Wales as European Enforcement Orders; and
 - (b) the enforcement in England and Wales of judgments, court settlements and authentic instruments certified as European Enforcement Orders by other Member States.
- (5) In this Part –
- (a) ‘the 1920 Act’ means the Administration of Justice Act 1920¹;
 - (b) ‘the 1933 Act’ means the Foreign Judgments (Reciprocal Enforcement) Act 1933²;
 - (c) ‘the 1982 Act’ means the Civil Jurisdiction and Judgments Act 1982³;
 - (d) ‘the Judgments 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 matters⁴;
 - (e) ‘the EEO Regulation’ means Council Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims.

(A copy of the EEO Regulation is annexed to Practice Direction 74B European Enforcement Orders and can be found at http://europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_143/l_14320040430en00150039.pdf)

¹ 10 & 11 Geo 5 c. 81.

² 23 & 24 Geo 5 c. 13.

³ 1982 c. 27, as amended by the Civil Jurisdiction and Judgments Act 1991 (c. 12) and by S.I. 1989/1346, S.I. 1990/2591, S.I. 1993/603, S.I. 2000/1824 and S.I. 2001/3929.

⁴ OJ No. L 299 16.11.2005 at p62.

I ENFORCEMENT IN ENGLAND AND WALES OF JUDGMENTS OF FOREIGN COURTS

74.2 Interpretation

- (1) In this Section –
- (a) ‘Contracting State’ has the meaning given in section 1(3) of the 1982 Act;
 - (b) ‘Regulation State’ means a Member State;
 - (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; 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.
- (2) For the purposes of this Section, ‘domicile’ is to be determined –
- (a) in an application under the 1982 Act, in accordance with sections 41 to 46 that Act;
 - (b) in an application under the Judgments Regulation, in accordance with paragraphs 9 to 12 of Schedule 1 to the Civil Jurisdiction and Judgments Order 2001¹.

74.3 Applications for registration

- (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 4 of the 1982 Act; and
 - (d) the Judgments Regulation
- 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.

74.4 Evidence in support

- (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;

¹ S.I. 2001/3929.

- (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 applies¹.
- (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.
- (6)** An application for registration under the Judgments Regulation must, in addition to the evidence required by that Regulation, be supported by the evidence required by paragraphs (1)(b) and (2)(e) of this rule.

74.5 Security for costs

- (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 or the Judgments Regulation may not be required to give security solely on the ground that he is resident out of the jurisdiction.

¹ 1980 c. 11.

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

74.6 Registration orders

- (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 the 1933 Act, to apply to have the registration set aside;
 - (ii) in the case of registration following an application under the 1982 Act or under the Judgments Regulation, 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.

74.7 Applications to set aside registration

- (1) An application to set aside registration under the 1920 or the 1933 Act must be made within the period set out in the registration order.
- (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.

74.8 Appeals

- (1) An appeal against the granting or the refusal of registration under the 1982 Act or the Judgments Regulation 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 or a Regulation State, as the case may be, and
 - (b) an application to extend the time for appealing is made within two months of service of the registration order

the 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.

74.9 Enforcement

- (1) No steps may be taken to enforce a 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 74.8, until the application or appeal has been determined.
- (2) 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.
- (3) 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.

74.10 Recognition

- (1) Registration of a judgment serves as a decision that the judgment is recognised for the purposes of the 1982 Act and the Judgments Regulation.
- (2) An application for recognition of a judgment is governed by the same rules as an application for registration of a judgment under the 1982 Act or under the Judgments Regulation, except that rule 74.4(5)(a) and (c) does not apply.

74.11 Authentic instruments and court settlements

The rules governing the registration of judgments under the 1982 Act or under the Judgments Regulation apply as appropriate and with any necessary modifications for the enforcement of –

- (a) authentic instruments which are subject to –
 - (i) article 50 of Schedule 1 to the 1982 Act;
 - (ii) article 50 of Schedule 3C to the 1982 Act; and
 - (iii) article 57 of the Judgments Regulation; and
- (b) court settlements which are subject to –
 - (i) article 51 of Schedule 1 to the 1982 Act;
 - (ii) article 51 of Schedule 3C to the 1982 Act; and
 - (iii) article 58 of the Judgments Regulation.

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

74.12 Application for a certified copy of a judgment

- (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 a county court under section 10 of the 1933 Act;
 - (c) to the High Court or to a county court under section 12 of the 1982 Act; or
 - (d) to the High Court or to a county court under article 54 of the Judgments Regulation.
- (2) A judgment creditor who wishes to enforce in a foreign country a judgment obtained in the High Court or in a county court must apply for a certified copy of the judgment.
- (3) The application may be made without notice.

74.13 Evidence in support

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

74.14 Interpretation

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.

74.15 Registration of money judgments in the High Court

- (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.

74.16 Registration of non-money judgments in the High Court

- (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.

74.17 Certificates of High Court and county court money judgments

- (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 a 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.

74.18 Certified copies of High Court and county court non-money judgments

- (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 a 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.

IV ENFORCEMENT IN ENGLAND AND WALES OF EUROPEAN COMMUNITY JUDGMENTS

74.19 Interpretation

In this Section –

- (a) ‘Community judgment’ means any judgment, decision or order which is enforceable under –
 - (i) article 244 or 256 of the Treaty establishing the European Community;
 - (ii) article 18, 159 or 164 of the Euratom Treaty;
 - (iii) article 44 or 92 of the ECSC Treaty;
 - (iv) article 82 of Council Regulation (EC) 40/94 of 20 December 1993 on the Community trade mark; or
 - (v) article 71 of Council Regulation (EC) 6/2002 of 12 December 2001 on Community designs;
- (b) ‘Euratom inspection order’ means an order made by the President of the European Court, or a decision of the Commission of the European Communities, under article 81 of the Euratom Treaty;
- (c) ‘European Court’ means the Court of Justice of the European Communities;
- (d) ‘order for enforcement’ means an order under the authority of the Secretary of State that the Community judgment to which it is appended is to be registered for enforcement in the United Kingdom.

74.20 Application for registration of a Community judgment

An application to the High Court for the registration of a Community judgment may be made without notice.

74.21 Evidence in support

- (1)** An application for registration must be supported by written evidence exhibiting –
 - (a) the Community judgment and the order for its enforcement, or an authenticated copy; 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)** Where the application is for registration of a Community judgment which is a money judgment, the evidence 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 amount in respect of which the judgment is unsatisfied; and
 - (d) that the European Court has not suspended enforcement of the judgment.

74.22 Registration orders

- (1)** A copy of the order granting permission to register a Community judgment ('the registration order') must be served on every person against whom the judgment was given.
- (2)** The registration order must state the name and address for service of the person who applied for registration, and must exhibit –
 - (a) a copy of the registered Community judgment; and
 - (b) a copy of the order for its enforcement.
- (3)** In the case of a Community judgment which is a money judgment, the registration order must also state the right of the judgment debtor to apply within 28 days for the variation or cancellation of the registration under rule 74.23.

74.23 Application to vary or cancel registration

- (1)** An application to vary or cancel the registration of a Community judgment which is a money judgment on the ground that at the date of registration the judgment had been partly or wholly satisfied must be made within 28 days of the date on which the registration order was served on the judgment debtor.
- (2)** The application must be supported by written evidence.

74.24 Enforcement

No steps may be taken to enforce a Community judgment which is a money judgment –

- (a) before the end of the period specified in accordance with rule 74.23(1); or
- (b) where an application is made under that rule, until it has been determined.

74.25 Application for registration of suspension order

- (1)** Where the European Court has made an order that the enforcement of a registered Community judgment should be suspended, an application for the registration of that order in the High Court is made by filing a copy of the order in the Central Office of the Senior Courts.
- (2)** The application may be made without notice.

74.26 Registration and enforcement of a Euratom inspection order

- (1) Rules 74.20, 74.21(1), and 74.22(1) and (2), which apply to the registration of a Community judgment, also apply to the registration of a Euratom inspection order but with the necessary modifications.
- (2) An application under article 6 of the European Communities (Enforcement of Community Judgments) Order 1972¹ to give effect to a Euratom inspection order may be made on written evidence, and –
 - (a) where the matter is urgent, without notice;
 - (b) otherwise, by claim form.

V EUROPEAN ENFORCEMENT ORDERS

74.27 Interpretation

- (1) In this Section –
 - (a) ‘European Enforcement Order’ has the meaning given in the EEO Regulation;
 - (b) ‘EEO’ means European Enforcement Order;
 - (c) ‘judgment’, ‘authentic instrument’, ‘member state of origin’, ‘member state of enforcement’, and ‘court of origin’ have the meanings given by Article 4 of the EEO Regulation; and
 - (d) ‘Regulation State’ has the same meaning as ‘Member State’ in the EEO Regulation, that is all Member States except Denmark.

74.28 Certification of Judgments of the Courts of England and Wales

An application for an EEO certificate must be made by filing the relevant practice form in accordance with Article 6 of the EEO Regulation.

74.29 Applications for a certificate of lack or limitation of enforceability

An application under Article 6(2) of the EEO Regulation for a certificate indicating the lack or limitation of enforceability of an EEO certificate must be made to the court of origin by application in accordance with Part 23.

74.30 Applications for rectification or withdrawal

An application under Article 10 of the EEO Regulation for rectification or withdrawal of an EEO certificate must be made to the court of origin and may be made by application in accordance with Part 23.

74.31 Enforcement of European Enforcement Orders in England and Wales

- (1) A person seeking to enforce an EEO in England and Wales must lodge at the court in which enforcement proceedings are to be brought the documents required by Article 20 of the EEO Regulation.
- (2) Where a person applies to enforce an EEO expressed in a foreign currency, the application must contain a certificate of the sterling equivalent of the judgment sum at the close of business on the date nearest preceding the date of the application.

¹ S.I. 1972/1590.

(Part 70 contains further rules about enforcement.)

74.32 Refusal of Enforcement

- (1) An application under Article 21 of the EEO Regulation that the court should refuse to enforce an EEO must be made by application in accordance with Part 23 to the court in which the EEO is being enforced.
- (2) The judgment debtor must, as soon as practicable, serve copies of any order made under Article 21(1) on –
 - (a) all other parties to the proceedings and any other person affected by the order ('the affected persons'); and
 - (b) any court in which enforcement proceedings are pending in England and Wales ('the relevant courts').
- (3) Upon service of the order on the affected persons, all enforcement proceedings under the EEO in the relevant courts will cease.

74.33 Stay of or limitation on enforcement

- (1) Where an EEO certificate has been lodged and the judgment debtor applies to stay or limit the enforcement proceedings under Article 23 of the EEO Regulation, such application must be made in accordance with Part 23 to the court in which the EEO is being enforced.
- (2) The judgment debtor shall, as soon as practicable, serve a copy of any order made under the Article on –
 - (a) all other parties to the proceedings and any other person affected by the order; and
 - (b) any court in which enforcement proceedings are pending in England and Wales; and the order will not have effect on any person until it has been served in accordance with this rule and they have received it.