

PRACTICE DIRECTION – ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

THIS PRACTICE DIRECTION SUPPLEMENTS PART 74

1. This practice direction is divided into two sections –
 - (1) Section I – Provisions about the enforcement of judgments
 - (2) Section II – The Merchant Shipping (Liner Conferences) Act 1982

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.

Registers

3. There will be kept in the Central Office of the Supreme Court 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) section 4 of the 1982 Act; or
 - (d) the Judgments Regulation;
 - (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 54 of the Judgments Regulation;
 - (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.

Making an application

- 4.1 Applications for the registration for enforcement in England and Wales of –
 - (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 Queen’s Bench Division and may be heard by a Master.
- 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 Queen’s Bench Division of the High Court, to a Master 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.
- 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 Queen’s Bench Division of the High Court, to a Master 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.
- 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;
 - (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 1933 Act

- 5. Foreign judgments are enforceable in England and Wales under the 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.

Evidence in support of an application under the Judgments Regulation: rule 74.4(6)

- 6.1 Where a judgment is to be recognised or enforced in a Regulation State, Council Regulation (EC) No 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters applies.
- 6.2 As a consequence of article 38(2) of the Judgments Regulation, the provisions in Chapter III of that Regulation relating to declaring judgments enforceable are the equivalent, in the United Kingdom, of provisions relating to registering judgments for enforcement.
- 6.3 Chapter III of, and Annex V to, the Judgments Regulation 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.
- 6.4 Sections 2 and 3 of Chapter III of the Judgments Regulation (in particular articles 40, 53, 54 and 55, and Annex V) set out the evidence needed in support of an application.
- 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.

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 Supreme Court.
- 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.
- 7.3 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.

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 Supreme Court, 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.

SECTION II

THE MERCHANT SHIPPING (LINER CONFERENCES) ACT 1982

Content of this Section

10. The Merchant Shipping (Liner Conferences) Act 1982 ('the Act') contains provisions for the settlement of disputes between liner conferences, shipping lines and shippers. This Section of the Practice Direction deals with the enforcement by the High Court under section 9 of the Act of recommendations of conciliators, and determinations and awards of costs.

Exercise of powers under the Act

11. The powers of the High Court under the Act are exercised by the Commercial Court.

Applications for registration

- 12.1 An application under section 9 of the Act for the registration of a recommendation, determination or award is made under Part 23.
- 12.2 An application for the registration of a recommendation must be supported by written evidence exhibiting –
- (1) a verified or certified or otherwise authenticated copy of –
 - (a) the recommendation;
 - (b) the reasons for it; and
 - (c) the record of settlement;
 - (2) where any of those documents is not in English, a translation of it into English –
 - (a) certified by a notary public or other qualified person; or
 - (b) accompanied by written evidence confirming that the translation is accurate; and
 - (3) copies of the acceptance of the recommendation by the parties on whom it is binding, or otherwise verifying the acceptance where it is not in writing.
- 12.3 The evidence in support of the application must –

- (1) give particulars of the failure to implement the recommendation; and
 - (2) confirm that none of the grounds which would render it unenforceable is applicable.
- 12.4 An application for the registration of a determination of costs or an award of costs must be supported by written evidence –
 - (1) exhibiting a verified or certified or otherwise authenticated copy of the recommendation or other document containing the determination or award; and
 - (2) stating that the costs have not been paid.

Order for registration

- 13.1 The applicant must draw up the order giving permission to register the recommendation, determination or award.
- 13.2 The order must include a provision that the reasonable costs of the registration should be assessed.

Register of recommendations

- 14. There will be kept in the Admiralty and Commercial Registry at the Royal Courts of Justice, under the direction of the Senior Master, a register of the recommendations, determinations and awards ordered to be registered under section 9 of the Act, with particulars of enforcement.

APPENDIX