

PART 68

REFERENCES TO THE EUROPEAN COURT

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INTERPRETATION

68.1

In this Part –

- (a) ‘the court’ means the court making the order;
- (b) ‘the European Court’ means the Court of Justice of the European Communities;
- (c) ‘order’ means an order referring a question to the European Court for a preliminary ruling under
 - (i) article 234 of the Treaty establishing the European Community;
 - (ii) article 150 of the Euratom Treaty;
 - (iii) article 41 of the ECSC Treaty;
 - (iv) 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 Matters¹; or
 - (v) 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 Obligations².

MAKING OF ORDER OF REFERENCE

68.2

- (1) An order may be made at any stage of the proceedings –
 - (a) by the court of its own initiative; or

¹ set out in Schedule 2 to the Civil Jurisdiction and Judgments Act 1982 (c. 27).

² set out in Schedule 3 to the Contracts (Applicable Law) Act 1990 (c. 36).

- (b) on an application by a party in accordance with Part 23.
- (2) An order may not be made –
 - (a) in the High Court, by a Master or district judge;
 - (b) in a county court, by a district judge.
- (3) The request to the European Court for a preliminary ruling must be set out in a schedule to the order, and the court may give directions on the preparation of the schedule.

TRANSMISSION TO THE EUROPEAN COURT

- 68.3
- (1) The Senior Master will send a copy of the order to the Registrar of the European Court.
 - (2) Where an order is made by a county court, the proper officer will send a copy of it to the Senior Master for onward transmission to the European Court.
 - (3) Unless the court orders otherwise, the Senior Master will not send a copy of the order to the European Court until –
 - (a) the time for appealing against the order has expired; or
 - (b) any application for permission to appeal has been refused, or any appeal has been determined.

STAY OF PROCEEDINGS

- 68.4
- Where an order is made, unless the court orders otherwise the proceedings will be stayed until the European Court has given a preliminary ruling on the question referred to it.