

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4138 of 8 January, 2015

LEGAL NOTICE NO. 3 OF 2015.

INTERPRETATION AND GENERAL CLAUSES ACT

CIVIL JURISDICTION AND JUDGMENTS ACT 1993 (AMENDMENT) REGULATIONS 2015

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and in order to implement Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Civil Jurisdiction and Judgments Act 1993 (Amendment) Regulations 2015 and come into operation on 10 January 2015.

Amendment of Civil Jurisdiction and Judgments Act 1993.

2.(1) The Civil Jurisdiction and Judgments Act 1993 is amended in accordance with the provisions of this Regulation.

(2) In section 2(1), in the definition of “the Regulation”, for “Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters” substitute “Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters”.

(3) In section 2(6)—

(a) in paragraph (a), delete “and”;

- (b) in paragraph (b), for the full stop, substitute “; and”; and
 - (c) after paragraph (b) insert–
 - “(c) in accordance with Article 73(1) of the Regulation (which determines the relationship between the Lugano Convention and the Regulation).”.
- (4) In section 32–
- (a) in subsection (2) delete “declared”; and
 - (b) in subsection (3)–
 - (i) delete “the Regulation” in the frontispiece; and
 - (ii) delete “or Regulation State” wherever it appears.
- (5) In the title to Schedule 10, insert “PART I” before “APPLICATION OF THE REGULATION”.
- (6) In paragraph 1(1) of Schedule 10–
- (a) for “32” substitute “2”;
 - (b) delete the definitions of “maintenance order” and “payer”.
- (7) Delete paragraph 1(3) of Schedule 10.
- (8) In paragraph 2 of Schedule 10–
- (a) in subparagraph (1)–
 - (i) for “declared enforceable” substitute “enforced”; and
 - (ii) for “the enforcement order” substitute “its enforcement”;
 - (b) in subparagraph (2)–
 - (i) for “declared enforceable” substitute “to be enforced”;

- (ii) for “registering” substitute “enforcing”; and
- (iii) for “court which made the enforcement order and had (where relevant) been entered” substitute “enforcing court”;
- (c) in subparagraph (3) for “Article 47 (restriction on enforcement where appeal pending or time for appeal unexpired),” substitute “Articles 41(2) and 46”.

(9) Delete paragraphs 3 and 4 of Schedule 10.

(10) In paragraph 5 of Schedule 10—

- (a) in the heading delete “registered”;
- (b) for subparagraph (1) substitute—
 - “(1) Subject to sub-paragraph (2), where a person applying for enforcement of a judgment under the Regulation shows—
 - (a) that the judgment provides for the payment of a sum of money; and
 - (b) that in accordance with the law of the Regulation State in which the judgment was given interest on that sum is recoverable under the judgment from a particular date or time,

the debt resulting from enforcement of the judgment is to carry interest at that rate and from that date or time.”;

- (c) in subparagraph (2)—
 - (i) before “court” insert “enforcing”;
 - (ii) delete “making the enforcement order”; and
 - (iii) for “that order” substitute “enforcement”.
- (d) delete subparagraph (3); and

- (e) in subparagraph (4) for “Except as mentioned in sub-paragraph (3), debts under judgments declared enforceable” substitute “Debts under judgments enforced”.
- (11) Delete paragraph 6 of Schedule 10.
- (12) In paragraph 7 of Schedule 10, for “Article 54 and Annex V” substitute “Article 53 and Annex I”.
- (13) In paragraph 8 of Schedule 10 for “Article 59” substitute “Article 62”.
- (14) In paragraph 9 of Schedule 10, in the heading, in subparagraph (1) and subparagraph (4) for “Article 22(2)” substitute “Article 24(2)”.
- (15) In paragraph 10 of Schedule 10–
 - (a) in subparagraph 2(a) for “Article 9(2)” substitute “Article 11(2)”;
 - (b) in subparagraph 2(b) for “Article 15(2)” substitute “Article 17(2)”;
 - (c) in subparagraph 2(c) for “Article 18(2)” substitute “Article 20(2)”.
- (16) After paragraph 11 of Schedule 10 insert the following–

“PART II

**AUTHENTIC INSTRUMENTS AND COURT
SETTLEMENTS**

Interpretation.

12. In this Part, references to authentic instruments and court settlements are references to those instruments and settlements referred to in Chapter IV of the Regulation.

Application to authentic instruments and court settlements.

13.(1) Subject to the modifications specified in paragraph (2), paragraphs 1, 2 and 5 shall apply, as appropriate to authentic instruments and court settlements as if they were judgments.

(2) In the application of paragraph 2(2) to authentic instruments and court settlements, for the words “as if the judgment had been originally given” there shall be substituted “as if it was a judgment which had been originally given”.

(4) Paragraph 7 shall apply to authentic instruments as if they were judgments and in its application for subparagraph (1)(b) there shall be substituted the following—

“(b) a certificate obtained in accordance with Articles 58 and 60 and Annex II shall be evidence that the authentic instrument is enforceable in the Regulation State of origin.”.

(5) Paragraph 7(1) shall apply to court settlements as if they were judgments and in its application for “Article 53 and Annex I” there shall be substituted “Article 60 and Annex II”.

Rules of Court.

14. Section 32 (matters for which rules of court may provide) will apply to authentic instruments and court settlements as if they were judgments to which the Regulation applies.”.

Consequential amendments.

3.(1) In section 72C(3) of the Supreme Court Act, for “Articles 59 and 60 of Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters as amended from time to time.” substitute “Articles 62 and 63 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.”.

(2) Delete section 60A(b) of the Matrimonial Causes Act.

Transitional and saving provision.

4. (1) For the purposes of proceedings, judgments and authentic instruments and court settlements to which, by virtue of Article 66(3) of Regulation 1215/2012, Regulation 44/2001 continues to apply–

- (a) the amendments made by these Regulations do not apply; and
- (b) the enactments amended by these Regulations continue to have effect as if those amendments had not been made.

(2) In this regulation–

“Regulation 1215/2012” means Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as amended from time to time and as applied by virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters; and

“Regulation 44/2001” 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 virtue of the Agreement made on 19 October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters”.

Dated 8th January, 2015.

G H LICUDI Q.C.,
Minister with responsibility for Justice,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations implement Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast). They also make consequential amendments to the Supreme Court Act and the Matrimonial Causes Act.

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