

**2014 No. 3298**

**JUDGMENTS, ENGLAND AND WALES**

**JUDGMENTS, NORTHERN IRELAND**

**The Civil Jurisdiction and Judgments (Protection Measures)  
Regulations 2014**

*Made* - - - - - *15th December 2014*

*Laid before Parliament* *18th December 2014*

*Coming into force in accordance with Regulation 1*

The Secretary of State, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(a)</sup> in relation to private international law<sup>(b)</sup>, makes the following Regulations in exercise of the power under section 2(2) of the European Communities Act 1972.

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Civil Jurisdiction and Judgments (Protection Measures) Regulations 2014.

(2) An amendment made by these Regulations has the same extent as the enactment amended.

(3) Otherwise, these Regulations extend to England and Wales and to Northern Ireland.

(4) These Regulations come into force on 11th January 2015, with the exception of regulation 5, which comes into force immediately after Article 12(5) of the Access to Justice (Northern Ireland) Order 2003<sup>(c)</sup> (the “2003 Order”) comes into force.

**Interpretation**

**2.** In these Regulations—

“incoming protection measure” means a protection measure that has been ordered in a Member State of the European Union other than the United Kingdom or Denmark;

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(a) 1972 c.68. Section 2 was amended by section 27(1)(a) and (b) of the Legislative and Regulatory Reform Act 2006 (c.51) and the Schedule to the European Union (Amendment) Act 2008 (c.7).

(b) S.I. 2008/1792. Implementation of obligations under Community law in respect of devolved matters is itself a devolved matter in Northern Ireland. However, the designation of the Secretary of State under the European Communities (Designation) (No 2) Order 2008 in relation to private international law remains exercisable in relation to Northern Ireland. This is despite the designation of Northern Ireland Departments in relation to that matter by virtue of the European Communities (Designation) Order (No 5) Order 2010 (S.I. 2010/2690) as that designation does not restrict the scope of other designations.

(c) S.I. 2003/435 (N.I. 10). Schedule 2 was amended by section 139 of, and paragraph 51 of Schedule 6 to, the Sexual Offences Act 2003 (2003 c.42); by section 112 of, and paragraph 96(2)(b) of Schedule 7 to, the Policing and Crime Act 2009 (2009 c.26); and by section 86(4) of the Justice Act (Northern Ireland) 2011 (2011 c.24).

“protection measure” has the meaning given by Article 3 of the Protection Measures Regulation;

“Protection Measures Regulation” means Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters<sup>(a)</sup>.

### **Jurisdiction in relation to incoming protection measures**

**3.**—(1) The courts specified in paragraph (2) have jurisdiction for the purposes of—

- (a) enforcement of an incoming protection measure under Article 4 of the Protection Measures Regulation;
- (b) adjustment of a factual element of an incoming protection measure under Article 11 of the Protection Measures Regulation;
- (c) refusal of recognition or enforcement of an incoming protection measure under Article 13 of the Protection Measures Regulation; and
- (d) suspension or withdrawal of the effects of recognition or enforcement under Article 14(2) of the Protection Measures Regulation.

(2) The courts are—

- (a) in England and Wales, the family court, the county court and the High Court;
- (b) in Northern Ireland, a county court and the High Court.

(3) In Schedule 1 to the Senior Courts Act 1981<sup>(b)</sup>, in paragraph 3 (Family Division), at the end insert—

“(1) proceedings under Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters, so far as relating to the recognition and enforcement in England and Wales of a protection measure (within the meaning of that Regulation) ordered in a Member State other than the United Kingdom.”.

(4) Except where an appeal may be brought under section 44 of the Judicature (Northern Ireland) Act 1978<sup>(c)</sup>, an appeal against a decision made under the Protection Measures Regulation by a court in Northern Ireland (“the decision”) must be brought in—

- (a) the High Court, where the decision was made by a county court;
- (b) a county court, where the decision was made by a court of summary jurisdiction.

(5) An appeal to the High Court by virtue of paragraph (4) is brought as if the decision had been made in the exercise of the jurisdiction conferred by Part III of the County Courts (Northern Ireland) Order 1980<sup>(d)</sup>, and Article 60 of that Order applies accordingly.

(6) On an appeal by virtue of paragraph (4), the appellate court may make—

- (a) any order which is necessary to give effect to its determination of the appeal; and
- (b) any incidental or consequential order as appears to it to be just.

### **Enforcement of incoming protection measures**

**4.** For the purposes of the enforcement of an incoming protection measure by a court specified by regulation 3(2) (“the enforcing court”)—

- (a) the incoming protection measure has the same force and effect,
- (b) the enforcing court has the same powers, and

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(a) OJ No. L 181, 29.6.2013, p. 4-12.

(b) 1981 c.54.

(c) 1978 c.23.

(d) S.I. 1980/397 (N.I.3).

(c) proceedings for or with respect to enforcement may be taken,  
as if the incoming protection measure were a protection measure ordered by the enforcing court.

### **Legal representation in respect of certain proceedings in Northern Ireland**

5. In paragraph 2(d) of Schedule 2 to the 2003 Order, after paragraph (xix) insert—

“(xx) in circumstances in which representation is required to be provided under Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes(a);”.

### **Consequential amendments**

6. In Article 88 of the Magistrates’ Courts (Northern Ireland) Order 1981(b) (nature of domestic proceedings), after paragraph (di), insert—

“(dj)under Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters;”.

15th December 2014

*Shailesh Vara*  
Parliamentary Under Secretary of State  
Ministry of Justice

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision to facilitate the application of Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters (the “Protection Measures Regulation”) from 11th January 2015.

These Regulations extend to England and Wales and to Northern Ireland.

Regulation 3 confers jurisdiction on courts in England and Wales and in Northern Ireland to deal with proceedings under the Protection Measures Regulation in respect of protection measures ordered in another Member State of the European Union except Denmark (“incoming protection measures”). Jurisdiction to deal with proceedings under the Protection Measures Regulation relating to protection measures ordered in the United Kingdom, is conferred on courts in the United Kingdom directly by that Regulation. Regulation 3 also assigns business that comes to the High Court in England and Wales relating to incoming protection measures to the Family Division of the High Court. Regulation 3 also ensures that the county courts and the High Court in Northern Ireland have jurisdiction to deal with appeals from decisions made under the Protection Measures Regulation. This is required due to existing statutory provision in Northern Ireland. No similar provision is required for England and Wales.

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(a) OJ No. L 26, 31.1.2003, p. 41-47.

(b) S.I. 1981/1675 (N.I.26).

Regulation 4 makes provision for the courts specified in regulation 3 to have equivalent powers in relation to incoming protection measures as they have in relation to protection measures made by those courts (“domestic protection measures”). In particular, the courts will have powers to enforce an incoming protection measure as if that measure were a domestic protection measure.

Regulation 5 relates to proceedings in the magistrates’ courts in Northern Ireland, including proceedings under the Protection Measures Regulation. The effect of the amendment is to ensure that these fall within scope for legal aid for legal representation in Northern Ireland in circumstances in which legal aid is required to be provided under Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. Under Regulation 1(4), this amendment will only be commenced immediately after the commencement of the Schedule which it amends.

Regulation 6 makes consequential provision required to ensure that the privacy protections which apply to domestic proceedings in magistrates’ courts in Northern Ireland apply to applications to those courts under the Protection Measures Regulation.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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