

STATUTORY INSTRUMENT

(S.I. No. 121 of 2007)

**European Communities (Enforcement of Community Judgments, Orders and Decisions)
Regulations 2007**

Published by the Stationery Office, Dublin

**To be purchased from the Government Publications Sales Office, Sun Alliance House,
Molesworth Street, Dublin 2
or through any bookseller**

Price: €1.27

PRN: A7/0462

I, Michael McDowell, Minister for Justice, Equality and Law Reform, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), hereby make the following Regulations:

Citation and commencement.

1. (1) These Regulations may be cited as the European Communities (Enforcement of Community Judgments, Orders and Decisions) Regulations 2007.
- (2) These Regulations shall come into operation on 23 March 2007.

Definitions.

2. In these Regulations-

“Community judgment, order or decision” means any judgment, order or decision which is enforceable under or in accordance with -

- (a) Article 244 or 256 of the Treaty establishing the European Community,
- (b) Article 18, 159 or 164 of the Euratom Treaty, or
- (c) Article 44 or 92 of the ECSC Treaty;

“order for enforcement”, in relation to a Community judgment, order or decision, means an order which -

- (a) is made by or on the behalf of the national authority specified in *Regulation 3*,
- (b) verifies the authenticity of the Community judgment, order or decision, and
- (c) enables the party concerned by the Community judgment, order or decision to proceed to enforcement of the Community judgment, order or decision in accordance with national law.

National authority.

3. The Minister for Foreign Affairs shall be the national authority for the purpose of carrying out the formalities specified in -
 - (a) Article 256 of the Treaty establishing the European Community,
 - (b) Article 164 of the Euratom Treaty, and
 - (c) Article 92 of the ECSC Treaty.

Application to High Court in relation to Community judgment, order or decision.

4. (1) Subject to *paragraphs (2) to (11)*, where an application to enforce a Community judgment, order or decision to which is appended an order for enforcement is duly made to the High Court by the person entitled to enforce the Community judgment, order or decision, the High Court shall order that the Community judgment, order or decision be entered pursuant to the order of enforcement as if the Community judgment, order or decision were a judgment or order of the High Court.
- (2) An application under *paragraph (1)* -
 - (a) shall be made by originating motion *ex parte*,
 - (b) shall be grounded on an affidavit sworn by the applicant, and
 - (c) shall exhibit -
 - (i) the Community judgment, order or decision and the order for enforcement the subject of the application or authenticated copies thereof, and

- (ii) if the Community judgment, order or decision is not in one of the official languages of the State, a translation thereof certified by a notary public or other person qualified to do so.

(3) Where the Community judgment, order or decision the subject of an application under *paragraph (1)* is for a sum of money, the affidavit referred to in *paragraph (2)(b)* shall state -

- (a) the name of the judgment creditor and an address for service, within the jurisdiction, of the judgment creditor,
- (b) the name of the judgment debtor and an address or place of business, if known, of the judgment debtor,
- (c) the amount in respect of which the Community judgment, order or decision is unsatisfied, and
- (d) that the Court of Justice of the European Communities has not suspended the enforcement of the Community judgment, order or decision.

(4) Where a sum of money is payable under a Community judgment, order or decision which is to be entered, the High Court may, if it considers it necessary to do so, order that that the amount payable shall be such sum in the currency of the State as, on the basis of the rate of exchange prevailing at the date on which the Community judgment, order or decision was originally given, is equivalent to the sum payable.

(5) Where it appears that a sum of money payable under a Community judgment, order or decision the subject of an application under *paragraph (1)* has been partly satisfied at the date of the application, the High Court shall order that the Community judgment, order or decision shall be entered only in respect of the balance remaining payable at that date.

(6) Notwithstanding *paragraph (3)(c)*, the High Court may inquire of its own motion as to whether or not a Community judgment, order or decision the subject of an application under *paragraph (1)* has been wholly or partly satisfied at the date of the application.

(7) A copy of an order under *paragraph (1)* granting leave to enter a Community judgment, order or decision -

- (a) shall be served on every person against whom the Community judgment, order or decision was given, and
- (b) shall be accompanied by -
 - (i) a copy of the Community judgment, order or decision,
 - (ii) a copy of the order for enforcement appended to the Community judgment, order or decision, and
 - (iii) if *paragraph (2)(c)(ii)* is applicable to the Community judgment, order or decision, a copy of the translation referred to in that paragraph of the Community judgment, order or decision.

(8) After the date on which a Community judgment, order or decision under which a sum of money is payable has been entered pursuant to an order under *paragraph (1)*, an application, grounded on an affidavit sworn by the applicant, may be made to the High Court by motion on notice for an order that the entry in respect of the Community judgment, order or decision be varied or cancelled on the grounds that at that date the Community judgment, order or decision had been partly or wholly satisfied.

(9) Where the High Court grants an application under *paragraph (8)* in relation to a Community judgment, order or decision, the entry in respect of the Community judgment, order or decision

shall be varied or cancelled, as the case requires, with effect from the date on which the entry was made.

(10) The High Court shall have jurisdiction over complaints that the enforcement of Community judgments, orders or decisions is being carried out in an irregular manner.

(11) An order for enforcement appended to a Community judgment, order or decision and purporting to be signed by -

- (a) the national authority specified in *Regulation 3*, or
- (b) a person, or a person belonging to a class of persons, authorised in writing by that national authority to sign orders for enforcement on behalf of the national authority,

shall, without proof of the signature of the person purporting to sign the order for enforcement or that the person was that national authority, a person so authorised or a person belonging to a class of persons so authorised, as the case may be, be evidence, unless the contrary is proved, of the matters stated in the order for enforcement in relation to that Community judgment, order or decision.

Effect of entry of Community judgment, order or decision.

5. Subject to Article 256 of the Treaty establishing the European Community, Article 164 of the Euratom Treaty and Article 92 of the ECSC Treaty, where a Community judgment, order or decision has been entered pursuant to an order under *Regulation 4(1)* -

- (a) the Community judgment, order or decision may be registered in the same manner as a judgment of the High Court,
- (b) the Community judgment, order or decision shall, for all purposes of execution, be of the same force and effect as if the Community judgment, order or decision had been a judgment or order of the High Court on the date of entry,
- (c) proceedings may be taken on the Community judgment, order or decision as if the Community judgment, order or decision had been a judgment or order of the High Court on the date of entry, and
- (d) unless otherwise provided in the Community judgment, order or decision or by Community law, any sum payable under the Community judgment, order or decision shall carry interest from the date on which the Community judgment, order or decision was made, and at such rate, as if the Community judgment, order or decision had been a judgment or order of the High Court.

Suspension of enforcement of Community judgment, order or decision.

6. An order of the Court of Justice of the European Communities suspending the enforcement of a Community judgment, order or decision shall, upon production in the High Court, operate to suspend the enforcement of the Community judgment, order or decision for the period and on the conditions, if any, stated in the order.

Restriction of section 9 of Enforcement of Court Orders Act 1940.

7. Section 9 of the Enforcement of Court Orders Act 1940 (No. 23 of 1940) shall not apply to or in relation to a person in prison to the extent that the person is in prison on account of the failure to pay a sum of money under a Community judgment, order or decision which has been entered.

Restriction of section 23 of Criminal Justice Act 1951.

8. Section 23 of the Criminal Justice Act 1951 (No. 2 of 1951) shall not apply to or in relation to a person to the extent that any punishment imposed on the person relates to a Community judgment, order or decision which has been entered.

Revocation.

9. The European Communities (Enforcement of Community Judgments) Regulations 1972 (S.I. No. 331 of 1972) are revoked.

GIVEN under my Official Seal,
This 21st. day of March 2007.

L.S.

MICHAEL McDOWELL T.D.
Minister for Justice, Equality
and Law Reform.

Explanatory Note

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations provide for the enforcement in Ireland of judgments of the Court of Justice of the European Communities, and of decisions of the Council of Ministers or the Commission imposing pecuniary obligations on persons other than States. These Regulations repeal S.I. No. 331/1972 European Communities (Enforcement of Community Judgments) Regulations 1972.