
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 26

**Act of Sederunt (Rules of the Court of Session
Amendment) (Regulation (EU) No. 1215/2012) 2015**

Citation, commencement etc.

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Rules of the Court of Session Amendment) (Regulation (EU) No. 1215/2012) 2015.

(2) It comes into force on 7th February 2015.

(3) A certified copy of this Act of Sederunt is to be inserted in the Books of Sederunt.

(4) In this Act of Sederunt, “the Rules of the Court of Session” means the Rules of the Court of Session in Schedule 2 to the Act of Sederunt (Rules of the Court of Session 1994) 1994(1).

Recognition, registration and enforcement of judgments

2.—(1) Chapter 62 of the Rules of the Court of Session(2) is amended in accordance with the following subparagraphs.

(2) The Heading to Part V of Chapter 62 becomes “RECOGNITION AND ENFORCEMENT OF JUDGMENTS UNDER THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982 OR UNDER THE LUGANO CONVENTION OF 30TH OCTOBER 2007”.

(3) In Rule 62.26 (application and interpretation of Part V of Chapter 62)(3)—

(a) for paragraph (1), substitute—

“(1) This Part applies to the recognition and enforcement of a judgment under the Act of 1982 or the Lugano Convention.”;

(b) in paragraph (2), omit the definitions of “the Council Regulation” and “Member State”.

(4) In rule 62.28 (enforcement of judgments, authentic instruments or court settlements from another Contracting State, Member State or State bound by the Lugano Convention)(4)—

(a) in paragraph (1), omit subparagraph (b);

(b) in paragraph (2), omit “Subject to paragraph (3)”;

(c) omit paragraph (3);

(d) in paragraph (4), omit “, (3)”;

(e) the heading becomes “Enforcement of judgments, authentic instruments or court settlements from another Contracting State or State bound by the Lugano Convention”.

(5) In rule 62.30 (Warrant for registration under the Act of 1982, the Council Regulation, or the Lugano Convention)(5)—

(a) in paragraph (1), omit “or, as the case may be, the Council Regulation”;

(1) [S.I. 1994/1443](#), last amended by [S.S.I. 2014/371](#).

(2) Chapter 62 was last amended by [S.S.I. 2011/288](#).

(3) Rule 62.26 was substituted by [S.S.I. 2004/52](#) and last amended by [S.S.I. 2009/450](#).

(4) Rule 62.28 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(5) Rule 62.30 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

- (b) the heading becomes “Warrant for registration under the Act of 1982 or the Lugano Convention”.
- (6) In rule 62.32 (Registration under the Act of 1982, the Council Regulation or the Lugano Convention)~~(6)~~—
- (a) in paragraph (1), omit “, the Council Regulation”;
- (b) the heading becomes “Registration under the Act of 1982 or the Lugano Convention”.
- (7) In rule 62.33 (Service of warrant for registration under the Act of 1982, the Council Regulation or the Lugano Convention)~~(7)~~ the heading becomes “Service of warrant for registration under the Act of 1982 or the Lugano Convention”.
- (8) In rule 62.34 (Appeals under the Act of 1982, the Council Regulation or the Lugano Convention)~~(8)~~—
- (a) in paragraph (1)—
- (i) omit “an appeal under Article 43 (appeals by either party) of the Council Regulation”;
- (ii) in subparagraph (b), omit “, the Council Regulation” and “Member State or”;
- (b) in paragraph (2)—
- (i) omit “, an appeal under Article 43 (appeals by either party) of the Council Regulation”;
- (ii) in subparagraph (b), omit “, the Council Regulation”;
- (c) the heading becomes “Appeals under the Act of 1982 or the Lugano Convention”.
- (9) In rule 62.35 (Reclaiming under the Act of 1982, the Council Regulation or the Lugano Convention)~~(9)~~—
- (a) in paragraph (1) omit “, the Council Regulation”;
- (b) the heading becomes “Reclaiming under the Act of 1982 or the Lugano Convention”.
- (10) In rule 62.36 (Recognition of judgments from another Contracting State, Member State or State bound by the Lugano Convention)~~(10)~~—
- (a) in paragraph (1), omit “, Article 33 of the Council Regulation (recognition of judgment)” and “, the Council Regulation”;
- (b) in paragraph (2), omit “, Article 33(2) of the Council Regulation (application for recognition of a judgment)”;
- (c) the heading becomes “Recognition of judgments from another Contracting State or State bound by the Lugano Convention”.
- (11) In rule 62.39 (Cancellation of registration under the Act of 1982, the Council Regulation or the Lugano Convention)~~(11)~~—
- (a) in subparagraph (a), omit—
- (i) “, the Council Regulation” where it first and second appears;
- (ii) “, an appeal under Article 43 of the Council Regulation”;
- (b) the heading becomes “Cancellation of registration under the Act of 1982 or the Lugano Convention”.

(6) Rule 62.32 was inserted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(7) Rule 62.33 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(8) Rule 62.34 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(9) Rule 62.35 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(10) Rule 62.36 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(11) Rule 62.39 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(12) In rule 62.40 (Enforcement in another Contracting State or Member State of Court of Session judgments etc)(12)—

- (a) omit paragraph (2);
- (b) in paragraph (3), omit “, 2(a)”;
- (c) omit paragraph (5);
- (d) in paragraph (6), omit “, (5)”;
- (e) the heading becomes “Enforcement in another Contracting State or State bound by the Lugano Convention of Court of Session judgments etc.”.

(13) After rule 62.42 (enforcement in another part of the United Kingdom of Court of Session judgments or documents registered for execution (non-money provisions))(13), insert—

“PART VA

RECOGNITION AND ENFORCEMENT OF JUDGMENTS UNDER REGULATION (EU) NO. 1215/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 12TH DECEMBER 2012 ON JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL MATTERS (RECAST)

Application and interpretation of this Part

62.42A.—(1) This Part applies to the recognition and enforcement of a judgment under the Brussels I (recast) Regulation.

(2) In this Part—

“adaptation order” means an order for the adaptation of a measure or order which is contained in a foreign judgment but is unknown under the law of Scotland, pursuant to Article 54 of the Brussels I (recast) Regulation;

“authentic settlement” has the meaning given by Article 2(c) of the Brussels I (recast) Regulation;

“the Brussels I (recast) Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12th December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)(14) as amended from time to time and as applied by the Agreement of 19th 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(15);

“court settlement” has the meaning given by Article 2(b) of the Brussels I (recast) Regulation;

“judgment” has the meaning given by Article 2(a) of the Brussels I (recast) Regulation.

(12) Rule 62.40 was substituted by [S.S.I. 2004/52](#) and amended by [S.S.I. 2009/450](#).

(13) Rule 62.42 was substituted by [S.S.I. 2004/52](#).

(14) O.J. L351, 20.12.2012, p. 1.

(15) O.J. L299, 16.11.2005, p. 62. By letter dated 20th December 2012, Denmark has notified the European Commission of its intention to implement the contents of the Brussels I (recast) Regulation, in accordance with the Agreement: see O.J. L79, 21.3.2013, p. 4.

Disapplication of certain rules to this Part

62.42B. Rules 4.1(1) (printed form for petition) and 14.4 (form of petitions) do not apply to an application under this Part.

Form of applications

62.42C.—(1) An application under the following provisions of the Brussels I (recast) Regulation is to be made by petition in Form 62.42C-A—

- (a) Article 36(2) (decision that there are no grounds for refusal of recognition as referred to in Article 45);
- (b) Article 45(1) (refusal of recognition of judgment);
- (c) Article 46 (refusal of enforcement of judgment);
- (d) Article 58(1) (refusal of enforcement of authentic instrument);
- (e) Article 59 (refusal of enforcement of court settlement).

(2) An application for an adaptation order is to be made by petition in Form 62.42C-B.

(3) A challenge under Article 54 (2) of the Brussels I (recast) Regulation to the adaptation of a measure or order without an adaptation order is to be made by petition in Form 62.42C-C.”.

(14) In the Appendix—

- (a) for Forms 62.28 (form of petition for registration of a judgment under section 4 of the Civil Jurisdiction and Judgments Act 1982 or under Article 38, Article 57 or Article 58 of the Council Regulation or the Lugano Convention)(**16**) and 62.33 (form of notice of decree and warrant for registration of a judgment under section 4 of the Civil Jurisdiction and Judgment Act 1982 or under Article 38, Article 57 or Article 58 of the Council Regulation or the Lugano Convention)(**17**), substitute Forms 62.28 and 62.33 set out in Part 1 of the Schedule to this Act of Sederunt;
- (b) after Form 62.42-B (form of certificate by Keeper of the Registers of non-money provisions in a writ registered for execution in the Books of Council and Session for registration under Schedule 7 to the Civil Jurisdiction and Judgments Act 1982), insert Forms 62.42C-A, 62.42C-B and 62.42C-C set out in Part 2 of the Schedule to this Act of Sederunt.

Edinburgh
27th January 2015

BRIAN GILL
Lord President
I.P.D.

(16) Form 62.28 was last substituted by [S.S.I. 2009/450](#).

(17) Form 62.33 was last substituted by [S.S.I. 2009/450](#).