
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 249

**EXITING THE EUROPEAN UNION
JUDGMENTS
CRIMINAL PROCEDURE**

The Civil Protection Measures, European
Protection Order and Victims' Rights (EU Exit)
(Scotland) (Amendment Etc.) Regulations 2022

<i>Made</i>	- - - -	<i>11th August 2022</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>15th August 2022</i>
<i>Coming into force</i>	- -	<i>1st December 2022</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2 and paragraph 21(a)(i) and (b) of schedule 7 of the European Union (Withdrawal) Act 2018(1), and all other powers enabling them to do so.

In accordance with paragraph 4 of schedule 2 of that Act the Scottish Ministers have consulted with the Secretary of State.

PART 1

INTRODUCTION

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Protection Measures, European Protection Order and Victims' Rights (EU Exit) (Scotland) (Amendment Etc.) Regulations 2022 and come into force on 1 December 2022.

(2) These Regulations extend to Scotland only.

(1) 2018 c. 16. Paragraph 21 of schedule 7 was amended by paragraph 53(2) of schedule 5 of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

PART 2

MUTUAL RECOGNITION OF PROTECTION MEASURES

Amendment of Regulation (EU) 606/2013

2.—(1) Regulation (EU) 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters⁽²⁾ is amended as follows.

(2) In Article 1 (subject matter)—

- (a) after “recognition” insert “, in Scotland,”,
- (b) before “Member State” insert “participating”.

(3) In Article 2 (scope)—

(a) for paragraph 1 substitute—

“1. This Regulation applies where the recognition or enforcement of a protection measure in civil matters ordered by an issuing authority is sought in Scotland.”,

(b) omit paragraph 2,

(c) in paragraph 3, after “Regulation (EC) 2201/2003” insert “as it has effect in EU law or as it has effect in the law of Scotland”.

(4) In Article 3 (definitions)—

(a) in point (1), for “the Member State of origin” substitute “a participating Member State”,

(b) in point (4)—

- (i) before “Member State” at both places where it occurs insert “participating”,
- (ii) for “this Regulation” substitute “the MRP Regulation”,

(c) for point (5) substitute—

“(5) “participating Member State” means a Member State other than Denmark;

(5A) “MRP Regulation” means Regulation (EU) 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters as it has effect in EU law;

(5B) “the competent court”, in relation to the recognition and enforcement of a protection measure means—

- (a) the Court of Session, or
- (b) the sheriff court.”,

(d) omit point (6).

(5) In Article 4 (recognition and enforcement)—

(a) in paragraph 1, for “ordered in a Member State shall be recognised in the other Member States” substitute “shall be recognised by the competent court”,

(b) for paragraph 2 substitute—

“2. A protected person who wishes to invoke a protection measure in Scotland must provide the competent court with—

- (a) a valid copy of the protection measure;

(2) EUR 2013/606. EUR 2013/606 was amended in respect of the law of England and Wales and Northern Ireland by S.I. 2019/493.

- (b) the certificate issued by the participating Member State pursuant to Article 5 of the MRP Regulation; and
 - (c) where necessary, a transliteration and/or a translation of the certificate into English.”,
- (c) for paragraph 5 substitute—

“5. For the purpose of enforcing a protection measure the Court of Session has the same powers, and may undertake the same procedure for enforcement, as if the protection measure was an interdict granted by the Court of Session.

For the purpose of enforcing a protection measure the sheriff court has the same powers, and may undertake the same procedure for enforcement, as if the protection measure was an interdict granted by the sheriff court.”.
- (6) Omit Articles 5 to 10.
- (7) In Article 11 (adjustment of the protection measure)—
 - (a) in paragraph 1—
 - (i) for “competent authority of the Member State addressed” substitute “competent court”,
 - (ii) for “that Member State” substitute “Scotland”,
 - (b) in paragraph 2, for “the Member State addressed” substitute “Scotland”,
 - (c) in paragraph 4—
 - (i) for the first sub-paragraph substitute—

“The notification is to be effected in accordance with the law of Scotland.”,
 - (ii) in the second sub-paragraph, for “the Member State addressed” substitute “Scotland”,
 - (d) in paragraph 5, for “the Member State addressed” substitute “Scotland”.
- (8) In Article 12 (no review as to substance)—
 - (a) omit “ordered in the Member State of origin”,
 - (b) for “in the Member State addressed” substitute “by the competent court”.
- (9) In Article 13 (refusal of recognition of enforcement)—
 - (a) in paragraph 1, in point (a) omit “in the Member State addressed”,
 - (b) in paragraph 1, in point (b) for “the Member State addressed” substitute “Scotland”,
 - (c) for paragraph 2 substitute—

“2. The application for refusal or recognition or enforcement must be submitted to the competent court.”,
 - (d) in paragraph 3, for “the Member State addressed” substitute “Scotland”.
- (10) In Article 14 (suspension or withdrawal of recognition or enforcement)—
 - (a) omit paragraph 1,
 - (b) in paragraph 2—
 - (i) for “the certificate issued in accordance with paragraph 1” substitute “a certificate issued in accordance with Article 14(1) of the MRP Regulation”,
 - (ii) for “competent authority of the Member State addressed” substitute “competent court”.

(11) In Article 15 (legalisation and other similar formalities) before “Member State” insert “participating”.

(12) Omit Articles 16 to 21.

(13) In Article 22 (entry into force) omit the first and second paragraphs.

(14) In the text following Article 22 omit “This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties”.

Revocation of the Civil Jurisdiction and Judgments (Protection Measures) (Scotland) Regulations 2014

3. The Civil Jurisdiction and Judgments (Protection Measures) (Scotland) Regulations 2014(3) are revoked.

PART 3

EUROPEAN PROTECTION ORDER

Repeal and revocation of provisions

4.—(1) Sections 254A to 254E of the Criminal Procedure (Scotland) Act 1995(4) are repealed.

(2) The European Protection Order (Scotland) Regulations 2015(5) are revoked.

(3) In paragraph 5 of schedule 2 of the Courts Reform (Scotland) Act 2014 (Consequential Provisions No. 2) Order 2015 (establishment of the Sheriff Appeal Court – modification of the Criminal Procedure (Scotland) Act 1995)(6) omit sub-paragraph (9).

Saving provision

5. Despite regulation 4(1), sections 254A and 254B of the Criminal Procedure (Scotland) Act 1995 continue to apply as if they had not been repealed to a European Protection Order issued under section 254B(2) of that Act before the coming into force of these Regulations.

PART 4

VICTIMS’ RIGHTS

Amendment of the Victims and Witnesses (Scotland) Act 2014

6.—(1) Section 3J of the Victims and Witnesses (Scotland) Act 2014 (offences committed in another Member State)(7) is amended as follows.

(2) In the heading for “another” substitute “a”.

(3) In paragraph (a) omit “other than the United Kingdom”.

(3) [S.S.I. 2014/333](#).

(4) [1995 c. 46](#). Sections 254A to 254E were added by regulation 2(2) of the European Protection Order (Scotland) Regulations 2015 ([S.S.I. 2015/107](#)).

(5) [S.S.I. 2015/107](#).

(6) [S.S.I. 2015/338](#).

(7) [2014 asp 1](#). Section 3J was added by regulation 9 of the Victims’ Rights (Scotland) Regulations 2015 ([S.S.I. 2015/444](#)).

St Andrew's House
Edinburgh
11th August 2022

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Authorised to sign by the Scottish Ministers

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations address deficiencies in aspects of retained EU law relating to the mutual recognition of protection measures in civil matters, to the European Protection Order, and to victims' rights, all arising from the withdrawal of the United Kingdom from the European Union.

Part 2 makes provision in relation to Regulation (EU) No. 606/2013 of the European Parliament and of the Council on mutual recognition of protection measures in civil matters.

Regulation 2 amends that Regulation as it has effect in the law of Scotland ("the EU Regulation"). The effect of the amendments is in part to revoke those parts of the EU Regulation that provide for the issuing in Scotland of certificates that would previously have enabled persons protected by protection measures granted in Scottish Courts to apply to have those measures recognised and enforced in Member States. Those parts of the EU Regulation concerned with the recognition and enforcement in Scotland of protection measures granted in Member States are retained but amended to address deficiencies.

As regulation 2(4)(c) and (5)(c) amends the EU Regulation to include the provisions regarding the jurisdiction and powers of Scottish courts currently set out in the Civil Jurisdiction and Judgments (Protection Measures) (Scotland) Regulations 2014, regulation 3 revokes those Regulations.

In Part 3, regulation 4(1) repeals sections 254A to 254E of the Criminal Procedure (Scotland) Act 1995 which gave effect in Scotland to [Directive 2011/99/EU](#) of the European Parliament and of the Council on the European Protection Order. Regulation 4(2) and (3) provide for a consequential revocation and a consequential amendment.

Regulation 5 is a saving provision that ensures that any European Protection Order previously issued by a Scottish court continues to have effect, and that the duties placed on the court where the domestic measure on which the Order is based is modified or revoked continue to apply.

In Part 4, regulation 6 addresses a deficiency in a reference to Member States in section 3J of the Victims and Witnesses (Scotland) Act 2014. Section 3J gave effect to Article 17(2) and (3) of [Directive 2012/29/EU](#) of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime.