

1971 No. 1809 (S.192)

COURT OF SESSION, SCOTLAND

Act of Sederunt (Rules of Court Amendment No. 10) 1971

Made - - - - - 3rd November 1971

Coming into Operation 3rd December 1971

The Lords of Council and Session, under and by virtue of the powers conferred upon them by section 16 of the Administration of Justice (Scotland) Act 1933(a) and section 7 of the Arbitration (International Investment Disputes) Act 1966(b) and of all other powers competent to them in that behalf, do hereby enact and declare as follows:

1. The Rules of Court(c) are hereby amended as follows:

- (1) By adding in the head of section 8 of Chapter IV, after the words "Foreign Judgments (Reciprocal Enforcement) Act 1933" the words "and the Arbitration (International Investment Disputes) Act 1966".
- (2) By adding after Rule 249 at the end of section 8 of Chapter IV a new Rule numbered 249A as follows:

"249A. Registration of Awards under the Arbitration (International Investment Disputes) Act 1966

1. In this Rule—

'The Act of 1966' means the Arbitration (International Investment Disputes) Act 1966;

'award' means an award rendered pursuant to the Convention;

'the Convention' means the Convention referred to in section 1(1) of the Act of 1966.

2. An application to have an award registered in the Books of the Lords of Council and Session shall be made by petition to the Outer House.

3. An application for registration shall be supported by an affidavit of the fact—

(a) exhibiting a copy of the award certified pursuant to the Convention;

(a) 1933 c. 41.

(c) S.I. 1965/321 (1965 I, p. 803).

(b) 1966 c. 41.

- (b) stating the full name, title, trade or business and the usual or (where appropriate) the last known place of abode or of business of the person seeking recognition of the award and of the other party to the investment dispute respectively, so far as known to the deponent; and
- (c) stating to the best of the information and belief of the deponent—
 - (i) that the applicant is entitled to enforce the award;
 - (ii) as the case may require, either that at the date of the application the pecuniary obligations imposed by the award have not been satisfied, or, if the award has been satisfied in part, what the amount is in respect of which it remains unsatisfied;
 - (iii) whether at the date of the application the enforcement of the award has been sisted (provisionally or otherwise) pursuant to the Convention and whether any, and if so what, application has been made pursuant to the Convention which, if granted, might result in a sist of enforcement of the award.

4. Where the pecuniary obligations imposed by the award are expressed in a currency other than the currency of the United Kingdom, the affidavit shall also state the amount which that sum represents in the currency of the United Kingdom calculated at the rate of exchange prevailing at the date of the award.

5. The Court on being satisfied that the application falls within the requirements of the Act of 1966 may grant warrant for the registration of the award.

6. There shall be kept in the Petition Department of the Court, by or under the direction of the Deputy Principal Clerk, a register of the awards ordered to be registered under the Act of 1966.

7.—(1) Notice in writing of the registration of the award shall be served by the petitioner on the other party to the investment dispute—

- (a) if within Scotland, by personal service unless some other mode of service is ordered by the Court;
- (b) if furth of Scotland, by edictal citation in accordance with Rule 75.

(2) The notice of registration shall state—

- (a) full particulars of the award registered and the order for registration;
- (b) the name and address of the person seeking recognition or enforcement of the award or of his solicitor.

(3) A certificate of execution of the notice of registration shall be lodged in process; and if a certificate is not so lodged, an extract of the registered award shall not be issued, and diligence on the award shall not be done, without leave of the Court. The warrant for diligence shall be in common form, and shall be executed upon a charge of fifteen days or such other period as the Lord Ordinary may fix.

8. Where it appears to the Court on granting leave to register an award, or on an application made by the other party to the investment dispute after an award has been registered—

(a) that the enforcement of the award has been sisted (whether provisionally or otherwise) pursuant to the Convention, or

(b) that an application has been made pursuant to the Convention which, if granted, might result in a sist of the enforcement of the award,

the Court shall, or in the case referred to in sub-paragraph (b), may, sist execution of the award for such time as it considers appropriate in the circumstances.

9. An application under paragraph 8 of this Rule by the other party to the investment dispute shall be made by petition to the Outer House and supported by an affidavit of the facts."

2. This Act of Sederunt may be cited as the Act of Sederunt (Rules of Court Amendment No. 10) 1971, and shall come into operation on 3rd December 1971.

And the Lords appoint this Act of Sederunt to be inserted in the Books of Sederunt.

Edinburgh,
3rd November 1971.

J. L. Clyde,
I.P.D.

EXPLANATORY NOTE

(This Note is not part of the Act of Sederunt.)

This Act of Sederunt amends the Rules of Court by making provision for the registration and enforcement of awards under the Arbitration (International Investment Disputes) Act 1966.