
EXPLANATORY NOTE

(This note is not part of the Act of Sederunt)

This Act of Sederunt makes rules of procedure in the sheriff court for applications for European Enforcement Order certificates for enforcement of judgments in other Member States of the European Community.

Such applications will be made under Regulation (EC) No. 805/2004 of the European Parliament and of the Council of 21st April 2004 creating a European Enforcement Order for uncontested claims (“the Regulation”).

The Regulation came in to force on 21 January 2005, and applies to all Member States other than Denmark, from 21 October 2005.

Rule 3 provides a procedure for an application for certification of an uncontested judgment as a European Enforcement Order. Examples would be a decree in absence or a decree by default.

Rule 4 provides a procedure for an application for certification of a judgment, where there has been an admission or settlement, as a European Enforcement Order. An example would be a decree granted of consent.

Rule 5 provides a procedure for certification of an authentic instrument as a European Enforcement Order. An example would be a deed registered for preservation and execution in the books of a sheriff court.

Rule 6 provides a procedure for certification of a lack or limitation of enforceability where a judgment has been certified as a European Enforcement Order.

Rule 7 provides a procedure for an application for a replacement certificate where a decision has been issued after a judgment that was certified as a European Enforcement Order has been challenged.

Rule 8 provides a procedure for an application for a certificate to be rectified due to a material error or withdrawn where it was clearly wrongly granted.

The Schedule sets out a form of notice to accompany the service of a judgment on a debtor and a form of execution of service by an officer or solicitor in Scotland.