
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 333

JUDGMENTS

The Civil Jurisdiction and Judgments (Protection Measures) (Scotland) Regulations 2014

Made - - - - 25th November 2014
Laid before the Scottish Parliament - - - - 27th November 2014
Coming into force - - 11th January 2015

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Civil Jurisdiction and Judgments (Protection Measures) (Scotland) Regulations 2014 and come into force on 11th January 2015.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“incoming protection measure” means a protection measure within the meaning of Article 3 of the Protection Measures Regulation that has been ordered in a Member State other than the United Kingdom or Denmark;

“protection measure” has the meaning given to it by Article 3 of the Protection Measures Regulation; and

“Protection Measures Regulation” means Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12th June 2013 on mutual recognition of protection measures in civil matters⁽²⁾.

(1) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon Ministers of the Crown under section 2(2), in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) OJ L 181, 29.6.13, p.4.

Jurisdiction in relation to issuing certificates under Articles 5, 9 and 14 of the Protection Measures Regulation

- 3.—(1) The courts specified in paragraph (2) have jurisdiction for the purposes of—
- (a) issuing a certificate under Article 5 of the Protection Measures Regulation;
 - (b) rectifying or withdrawing a certificate under Article 9 of the Protection Measures Regulation; and
 - (c) issuing a certificate under Article 14 of the Protection Measures Regulation.
- (2) The courts are—
- (a) where the protection measure was ordered by the Court of Session, the Court of Session; and
 - (b) where the protection measure was ordered by a sheriff court, the sheriff court in which the protection measure was ordered.

Jurisdiction in relation to incoming protection measures

4. The Court of Session and the sheriff court have jurisdiction for the purposes of—
- (a) enforcing an incoming protection measure under Article 4 of the Protection Measures Regulation;
 - (b) adjusting a factual element of an incoming protection measure under Article 11 of the Protection Measures Regulation;
 - (c) refusing to recognise or enforce an incoming protection measure under Article 13 of the Protection Measures Regulation;
 - (d) suspending or withdrawing the effects of recognition or enforcement of an incoming protection measure under Article 14 of the Protection Measures Regulation.

Enforcement of incoming protection measures

5.—(1) For the purposes of enforcing an incoming protection measure under Article 4 of the Protection Measures Regulation, the Court of Session has the same powers, and may undertake the same procedure for enforcement, as if the incoming protection measure was an interdict granted by the Court of Session.

(2) For the purposes of enforcing an incoming protection measure under Article 4 of the Protection Measures Regulation, the sheriff court has the same powers, and may undertake the same procedure for enforcement, as if the incoming protection measure was an interdict granted by the sheriff court.

- (3) In paragraphs (1) and (2) “interdict” includes interim interdict.

St Andrew’s House,
Edinburgh
25th November 2014

PAUL WHEELHOUSE
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations make provision to facilitate the application of Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12th June 2013 on mutual recognition of protection measures in civil matters (“the Protection Measures Regulation”). They extend to Scotland only.

Regulation 3 confers jurisdiction on the Court of Session, or the sheriff court which ordered the protection measure, upon request by the protected person, to issue a certificate under Article 5 of the Protection Measures Regulation, using the multilingual standard form. This certificate contains information enabling the protection measure ordered to be recognised in another Member State.

Regulation 3 also confers jurisdiction on the Court of Session, or the sheriff court which ordered the protection measure, to rectify or withdraw a certificate under Article 9 of the Protection Measures Regulation and to issue a certificate indicating suspension, limitation or withdrawal of the protection measure under Article 14 of the Protection Measures Regulation.

Regulation 4 confers jurisdiction upon the Court of Session and the sheriff court to enforce an incoming protection measure, adjust a factual element of an incoming protection measure, refuse to recognise or enforce an incoming protection measure and to suspend or withdraw the effects of recognition or enforcement of an incoming protection measure under Articles 4, 11, 13 and 14 of the Protection Measures Regulation respectively.

Regulation 5 provides that for the purposes of enforcing an incoming protection measure under Article 4 of the Protection Measures Regulation, the Court of Session and the sheriff court will have the same powers, and may undertake the same procedure for enforcement, as if the incoming protection measure was a protection measure in the form of an interdict ordered by those courts.