SCOTTISH STATUTORY INSTRUMENTS

2015 No. 26

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

Recognition, registration and enforcement of judgments

2.—(1) Chapter 62 of the Rules of the Court of Session [M1] is amended in accordance with the following subparagraphs.

[F1](2) . . . . . .

[F1](3) . . . . . .

[F1](4) . . . . . .

[F1](5) . . . . . .

[F1](6) . . . . . .

[F1](7) . . . . . .

[F1](8) . . . . . .

[F1](9) . . . . . .

[F1](10) . . . . . .

[F1](11) . . . . . .

[F1](12) . . . . . .

(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)) [M2], 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) [M3] 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 [M4];

"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.

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) [M5] 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) [M6], 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.

Textual Amendments

F1 Para. 2(2)-(12) revoked (28.3.2019) by Act of Sederunt (Rules of the Court of Session 1994 Amendment) (Regulation (EC) No. 44/2001) (Transitional Provisions) 2019 (S.S.I. 2019/85), paras. 1(2), **3**

Marginal Citations

M1 Chapter 62 was last amended by S.S.I. 2011/288.

M2 Rule 62.42 was substituted by S.S.I. 2004/52.

M3 O.J. L351, 20.12.2012, p. 1.

M4 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.

M5 Form 62.28 was last substituted by S.S.I. 2009/450.

M6 Form 62.33 was last substituted by S.S.I. 2009/450.

Status:
Point in time view as at 28/03/2019.

Changes to legislation:
There are currently no known outstanding effects for the Act of Sederunt (Rules of the Court of Session Amendment) (Regulation (EU) No. 1215/2012) 2015, Section 2.