
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 450

**Act of Sederunt (Rules of the Court of Session
Amendment No. 9) (Miscellaneous) 2009**

Recognition and enforcement of judgments under the 2007 Lugano Convention

2.—(1) The Rules of the Court of Session 1994⁽¹⁾ are amended in accordance with the following subparagraphs.

(2) In rule 62.26(1) (application and interpretation of Part V of Chapter 62)⁽²⁾, for “or under the Council Regulation” substitute “, the Lugano Convention or the Council Regulation”.

(3) The heading to Part V of Chapter 62 becomes “**RECOGNITION AND ENFORCEMENT OF JUDGMENTS UNDER THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982 OR UNDER COUNCIL REGULATION (E.C.) NO.44/2001 OF 22ND DECEMBER 2001 OR UNDER THE LUGANO CONVENTION OF 30TH OCTOBER 2007**”.

(4) In rule 62.26(2), after the definition of “the Council Regulation”⁽³⁾ insert—

““the Lugano Convention” means the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, between the European Community and the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation and the Kingdom of Denmark and signed by the European Community on 30th October 2007⁽⁴⁾;

(5) In rule 62.28 (enforcement of judgments, authentic instruments or court settlements from another Contracting State or Member State)⁽⁵⁾—

(a) in paragraph (1)(a) omit “or 3C”;

(b) after paragraph (1)(b) insert—

“or

(c) Article 38 (enforcement of judgment from another State bound by the Lugano Convention), Article 57 (enforcement of authentic instrument from another State bound by the Lugano Convention) or Article 58 (enforcement of court settlement from another State bound by the Lugano Convention) of the Lugano Convention.”.

(c) After paragraph (3) insert—

“(3A) Paragraph (2)(b) and (d) shall not apply to a petition under Article 38 (enforcement of judgment from another State bound by the Lugano Convention), Article 57 (enforcement of authentic instrument from another State bound by the Lugano Convention) or Article 58 (enforcement of court settlement from another State bound by the Lugano Convention) of the Lugano Convention but there shall be produced with such a petition a certificate under Article 54 (standard form of certificate of judgment), Article

(1) [S.I. 1994/1443](#), last amended by [S.S.I. 2009/387](#).

(2) Rule 62.26 was substituted by [S.S.I. 2004/52](#).

(3) The definition of “Council Regulation” was substituted by [S.S.I. 2007/350](#).

(4) O.J. No. L 338, 21.12.2007 p.3.

(5) Rule 62.28 was substituted by [S.S.I. 2004/52](#).

57 (standard form of certificate of authentic instrument) or Article 58 (standard form of certificate of court settlement) of the Lugano Convention.”; and

(d) in paragraph (4), for “or (3)” substitute “, (3) or (3A)”.

(6) The heading to rule 62.28 becomes “**Enforcement of judgments, authentic instruments or court settlements from another Contracting State, Member State or State bound by the Lugano Convention**”.

(7) In rule 62.30 (warrant for registration under the Act of 1982 or the Council Regulation)(6), in paragraph (1), after “Council Regulation” insert “or the Lugano Convention”.

(8) The heading to rule 62.30 becomes “**Warrant for registration under the Act of 1982, the Council Regulation or the Lugano Convention**”.

(9) In rule 62.32 (registration under the Act of 1982 or the Council Regulation)(7), in paragraph (1), for “and the Council Regulation” substitute “, the Council Regulation and the Lugano Convention”.

(10) The heading to rule 62.32 becomes “**Registration under the Act of 1982, the Council Regulation or the Lugano Convention**”.

(11) The heading to rule 62.33 becomes “**Service of warrant for registration under the Act of 1982, the Council Regulation or the Lugano Convention**”.

(12) In rule 62.34 (appeals under the Act of 1982 or the Council Regulation)(8)—

(a) for paragraph (1) substitute—

“(1) An appeal under Article 37 of the convention in Schedule 1 to the Act of 1982 (appeal against granting of warrant for registration), an appeal under Article 43 (appeals by either party) of the Council Regulation or an appeal under Article 43 (appeals by either party) of the Lugano Convention against the granting of a warrant for registration shall be made by motion—

(a) to the Lord Ordinary; and

(b) within one month of service under rule 62.33 (service of warrant for registration under the Act of 1982, the Council Regulation or the Lugano Convention) or within two months of such service where service was executed on a person domiciled in another Contracting State or, as the case may be, Member State or State bound by the Lugano Convention.”;

(b) for paragraph (2) substitute—

“(2) An appeal under Article 40 of the convention in Schedule 1 to the Act of 1982 (appeal against refusal to grant warrant for registration), an appeal under Article 43 (appeals by either party) of the Council Regulation or an appeal under Article 43 (appeals by either party) of the Lugano Convention against a refusal to grant warrant for registration shall be made by motion—

(a) to the Lord Ordinary; and

(b) within one month of the interlocutor pronounced under rule 62.30(1) (warrant for registration under the Act of 1982, the Council Regulation or the Lugano Convention).”.

(13) The heading to rule 62.34 becomes “**Appeals under the Act of 1982, the Council Regulation or the Lugano Convention**”.

(6) Rule 62.30 was substituted by [S.S.I. 2004/52](#).

(7) Rule 62.32 was substituted by [S.S.I. 2004/52](#).

(8) Rule 62.34 was substituted by [S.S.I. 2004/52](#).

(14) In rule 62.35 (reclaiming under the Act of 1982 or the Council Regulation)(9), in paragraph (1), for “or the Council Regulation” substitute “, the Council Regulation or the Lugano Convention”.

(15) The heading to rule 62.35 becomes “**Reclaiming under the Act of 1982, the Council Regulation or the Lugano Convention**”.

(16) For rule 62.36 (recognition of judgments from another Contracting State or Member State)(10) substitute—

“Recognition of judgments from another Contracting State, Member State or State bound by the Lugano Convention

62.36.—(1) For the purposes of Article 26 of the convention in Schedule 1 to the Act of 1982, Article 33 of the Council Regulation (recognition of judgment) or Article 33 of the Lugano Convention (recognition of judgment), an interlocutor pronounced under rule 62.30(1) (warrant for registration under the Act of 1982, the Council Regulation or the Lugano Convention) shall imply recognition of the judgment so dealt with.

(2) In an application under Article 26(2) of the convention in Schedule 1 to the Act of 1982 (application for recognition of a judgment), Article 33(2) of the Council Regulation (application for recognition of a judgment) or Article 33(2) of the Lugano Convention (application for recognition of a judgment), rules 62.26 to 62.35 shall apply to such an application as they apply to an application under Article 31 of the convention in Schedule 1 to the Act of 1982, subject to the following provisions—

- (a) it shall not be necessary to produce any documents required by rule 62.28(2)(b) and (d); and
- (b) rule 62.32 shall not apply.”.

(17) In rule 62.39 (cancellation of registration under the Act of 1982 or the Council Regulation)(11), for paragraph (a) substitute—

“(a) an interlocutor under rule 62.30(1) (warrant for registration under the Act of 1982, the Council Regulation or the Lugano Convention) is recalled and registration under rule 62.32 (registration under the Act of 1982, the Council Regulation or the Lugano Convention) is ordered to be cancelled after an appeal under Article 37 of the convention in Schedule 1 to the Act of 1982, an appeal under Article 43 of the Council Regulation or an appeal under Article 43 of the Lugano Convention; or”

(18) The heading to rule 62.39 becomes “**Cancellation of registration under the Act of 1982, the Council Regulation or the Lugano Convention**”.

(19) In rule 62.40 (enforcement in another Contracting State or Member State of Court of Session judgments etc.)—

- (a) in paragraph (2)(a), for “Judgments” substitute “Council”;
- (b) after paragraph (2) insert—

“(2A) Where a person seeks to apply under Title III of the Lugano Convention for recognition or enforcement in another State bound by the Lugano Convention of a judgment given by the court, he shall apply by letter to the Deputy Principal Clerk for—

- (a) a certificate under Article 54 of the Lugano Convention;
- (b) a certified copy of the judgment; and

(9) Rule 62.35 was substituted by [S.S.I. 2004/52](#).

(10) Rule 62.36 was substituted by [S.S.I. 2004/52](#).

(11) Rule 62.39 was substituted by [S.S.I. 2004/52](#).

- (c) if required, a certified copy of the opinion of the court.”.
- (c) in paragraph (3), for “or 2(a)” insert “,(2)(a) or (2A)(a)”;
- (d) in paragraph (4) omit “or 3C”;
- (e) after paragraph (5) insert—
 - “(5A) Where a person seeks to apply under Article 57 or 58 of the Lugano Convention for enforcement in another State bound by the Lugano Convention of an authentic instrument or court settlement registered for execution in the Books of Council and Session, he shall apply by letter to the Keeper of the Registers for—
 - (a) a certificate under Article 57 or 58 of the Lugano Convention; and
 - (b) an extract of the authentic instrument or court settlement.”; and
 - (f) in paragraph (6), for “paragraph (4) or (5)” substitute “paragraph (4), (5) or (5A).”.
- (20) In the appendix, for Forms 62.28 and 62.33 respectively substitute the forms of those numbers set out in the Schedule to this Act of Sederunt.