

CHAPTER 62

RECOGNITION, REGISTRATION AND ENFORCEMENT OF FOREIGN JUDGMENTS, ETC.

PART I

GENERAL PROVISIONS

Disapplication of certain rules to this Chapter

62.1. Subject to Part XIII the following rules shall not apply to a petition or application under this Chapter:-

- 14.5 (first order in petitions),
- 14.6 (period of notice for lodging answers),
- 14.7 (intimation and service of petitions),
- 14.9 (unopposed petitions).

Declaration of currency conversion

62.2.-(1) Subject to paragraph (4), where the sum payable under a judgment, award, recommendation or determination to be registered in accordance with a provision of this Chapter is expressed in a currency other than sterling, the petitioner or applicant, as the case may be, before applying to the Keeper of the Registers for registration of such a document, shall lodge in the Petition Department-

(a) a declaration in Form 62.2 stating the rate of exchange prevailing at-

- (i) the date of the judgment, award, recommendation or determination,
- (ii) the date on which the certified statement is lodged, or
- (iii) a date within three days before the date on which the certified statement is lodged, and of the sterling equivalent, at that rate, of the principal sum, interest and expenses contained in the judgment, award, recommendation or determination, as the case may be;

(2) The declaration required under paragraph (1)(a) must specify the source of the rate of exchange relied upon in the declaration..

(3) On receipt of the documents specified in paragraph (1), the clerk of session shall, if satisfied with the terms of those documents, sign and date the docquet in Form 62.2.

(4) This rule does not apply in relation to an application for registration of a judgment, court settlement or authentic instrument on uncontested claims certified as a European Enforcement Order under the Regulation, as defined in rule 62.81(1).

Translation of document lodged

62.3. Where a judgment, award, or other document lodged with a petition or application to which this Chapter applies is in a language other than English, there shall be produced with the petition a translation into English certified as correct by the translator; and the certificate shall include his full name, address and qualification.

Electronic signing and transmission of documents

62.3A.-(1) This rule applies in relation to a document which is to be given to, or issued by, the Keeper of the Registers under this Chapter.

(2) In this rule—

“document” includes a copy of a document;

“electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000^(a) (electronic signatures and related certificates), but includes a version of an electronic signature which is produced on a paper document;
“the Keeper of the Registers’ website” means the website maintained by, or on behalf of, the Keeper of the Registers with the domain name ros.gov.uk.

(3) An electronic signature fulfils any requirement (however expressed) that the document be signed.

(4) The document may be—

(a) given to the Keeper of the Registers by transmitting it to the Keeper of the Registers electronically;

(b) issued to a person by the Keeper of the Registers by—

- (i) transmitting it to the person electronically;
- (ii) transmitting it (electronically or otherwise) to a solicitor engaged to act on the person’s behalf in relation to the document.

(5) For the purposes of paragraph (4)(a), the document may be transmitted by a means (and in a form) which is specified on the Keeper of the Registers’ website as being acceptable for those purposes.

(6) For the purposes of paragraph (4)(b)—

(a) electronic transmission of a document by the Keeper of the Registers to another person (“the recipient”) must be effected in a way that the recipient has indicated to the Keeper of the Registers that the recipient is willing to receive the document;

(b) the recipient’s indication of willingness to receive a document in a particular way may be—

- (i) specific to the document in question or generally applicable to documents of that kind;
- (ii) expressed specifically to the Keeper of the Registers or generally (for example, on a website);
- (iii) inferred from the recipient having previously been willing to receive documents from the Keeper of the Registers in that way and not having indicated unwillingness to do so again;

(c) the Keeper of the Registers’ uploading of a document to an electronic storage system from which the recipient is able to download the document may constitute electronic transmission of the document from the Keeper of the Registers to the recipient.

^(a) 2000 c. 7. Section 7(2) was substituted by S.I. 2016/696.

PART II

REGISTRATION AND ENFORCEMENT UNDER THE ADMINISTRATION OF JUSTICE ACT 1920 AND THE FOREIGN JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1933

Application and interpretation of this Part

62.4.-(1) This Part applies to an application to the court under the Administration of Justice Act 1920(**a**) or the Foreign Judgments (Reciprocal Enforcement) Act 1933(**b**).

(2) In this Part-

"the 1920 Act" means the Administration of Justice Act 1920;

"the 1933 Act" means the Foreign Judgments (Reciprocal Enforcement) Act 1933.

Applications for registration under the 1920 Act or 1933

62.5.-(1) An application under section 9 of the 1920 Act (enforcement in United Kingdom of judgments obtained in superior courts in other British Dominions etc.) shall be made by petition.

(2) An application under section 2 of the 1933 Act(**c**) (application for registration of a foreign judgment) shall be made by petition.

Supporting documents

62.6.-(1) There shall be produced with the petition for registration referred to in rule 62.5 an affidavit-

- (a) referring to the judgment or a certified copy of the judgment issued by the original court and authenticated by its seal; and
- (b) stating-
 - (i) the full name, title, trade or business and the usual or last known place of residence or business of the judgment creditor and the judgment debtor respectively;
 - (ii) that the petitioner is entitled to have the judgment registered under the 1920 Act or the 1933 Act, as the case may be;
 - (iii) where the judgment is in respect of several matters, only some of which may be registered, those in respect of which the petitioner seeks registration;
 - (iv) the amount of the interest, if any, which under the law of the country of the original court has become due under the judgment up to the date of the affidavit;
 - (v) the amount of the judgment which is unsatisfied;
 - (vi) that at the date of presentation of the petition the judgment may be enforced by execution in the country of the original court;
 - (vii) that if the judgment were registered, the registration would not be, or be liable to be, set aside under section 4 of the 1933 Act; and
 - (viii) that the judgment is not a judgment to which section 5 of the Protection of Trading Interests Act 1980(**d**) (restriction on enforcement of certain overseas judgments) applies.

(2) There shall be produced with a petition referred to in rule 62.5 such other evidence with respect to the matters referred to in sub-paragraphs (b)(iv) and (b)(vi) of paragraph (1) as may be required having regard to the provisions of an order in Council made under section 1 of the 1933 Act(**e**) (power to extend the 1933 Act to the country of the original court).

(**a**) 1920 c.81.

(**b**) 1933 c.13.

(**c**) Section 2 was amended by the Administration of Justice Act 1977 (c.38), section 4 and Schedule 3.

(**d**) 1980 c.11.

(**e**) Section 1 was amended by the Civil Jurisdiction and Judgments Act 1982 (c.27), Schedule 10

Warrant for registration under the 1920 Act or 1933

62.7.-(1) The court shall, on being satisfied that the petition complies with the requirements of the 1920 Act or the 1933 Act, as the case may be, pronounce an interlocutor granting warrant for the registration of the judgment.

(2) The interlocutor under paragraph (1) shall specify a date by which the judgment debtor may apply to the court to set aside the registration; and in fixing such date, regard shall be had to the place of residence of the judgment debtor.

(3) In fixing the date under paragraph (2), the court shall have regard, in the case of a judgment debtor furth of Scotland, to the periods for superseding extract of a decree in absence in rule 19.1(5).

Registration of judgments under the 1920 Act or 1933

62.8.-(1) Where the court pronounces an interlocutor under rule 62.7(1) granting warrant for registration, the Deputy Principal Clerk shall enter details of the judgment in a register of judgments under the 1920 Act or the 1933 Act, as the case may be, kept in the Petition Department.

(2) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of the interlocutor under rule 62.7(1) granting warrant for registration,
- (b) the judgment or a certified copy of the judgment and any translation of it, and
- (c) any declaration of currency conversion under rule 62.2(1)(a),

they shall be registered in the register of judgments of the Books of Council and Session.

(3) An extract of a registered judgment with a warrant for execution shall not be issued by the Keeper of the Registers until the certificate mentioned in rule 62.10(3) is produced to him.

Service on judgment debtor

62.9. On registration of a judgment under rule 62.8(2), the petitioner shall serve a notice of the registration on the judgment debtor in Form 62.9.

Application to set aside registration under the 1920 Act or 1933

62.10.-(1) An application by a judgment debtor to set aside the registration of a judgment shall be made by note and supported by affidavit and any documentary evidence.

(2) In relation to such an application, the court may order such inquiry as it thinks fit.

(3) Where no such application is made by the date specified in the interlocutor pronounced under rule 62.7(2) or where the application has been made and refused, the Deputy Principal Clerk shall, at the request of the petitioner, issue a certificate to that effect.

(4) Subject to paragraph (5), where such an application is granted, a certificate to that effect issued by the Deputy Principal Clerk shall be sufficient warrant to the Keeper of the Registers to cancel the registration and return the judgment to the petitioner.

(5) Where the court makes an order under section 5(3) of the 1933 Act (judgment ordered to be registered for balance payable), it shall pronounce an interlocutor-

- (a) recalling the warrant for registration granted under rule 62.7; and
- (b) granting warrant for registration of the judgment in respect of the balance remaining payable at the date of the original petition for registration.

Application for enforcement abroad under the 1920 Act or 1933

62.11.- (1) An application under section 10 of the 1920 Act^(a) or the 1933 Act^(b), as the case may be, for a certified copy of a judgment pronounced by the court shall be made by letter to the Deputy Principal Clerk.

(2) On receipt of such an application, the Deputy Principal Clerk shall issue under the seal of the court a copy of the judgment certified by him in Form 62.11.

(3) Where such an application is made under section 10 of the 1933 Act, the Deputy Principal Clerk shall issue with the certified copy of the judgment a further certificate under the seal of the court signed by him containing the details, and having appended the documents, mentioned in paragraph (4).

(4) A certificate under paragraph (3) shall-

(a) state-

- (i) the manner in which the principal writ or counterclaim was served on the judgment debtor;
- (ii) whether or not the judgment debtor entered appearance or lodged answers in the process of the cause;
- (iii) any objection made to the jurisdiction;
- (iv) that the time limit for appeal has expired and that no appeal has been taken, or that an appeal was taken but was refused; and
- (v) such other particulars as may be required by the foreign court which may enable execution of the judgment; and

(b) number, identify and have appended to it a copy of-

- (i) the principal writ or counterclaim showing the manner in which such writ was served on the judgment debtor;
- (ii) the pleadings, if any, in the cause resulting in the judgment; and
- (iii) a copy of the opinion, if any, of the judge or judges who issued the judgment.

(5) Where necessary, the applicant shall provide the copies of the documents mentioned in paragraph (4).

^(a) Section 10 of the 1920 Act was substituted by the Civil Jurisdiction and Judgments Act 1982 (c.27) ("the 1982 Act"), section 35

^(b) Section 10 of the 1933 Act was substituted by the 1982 Act, Schedule 10, paragraph 3

PART III

REGISTRATION OF AWARDS UNDER THE ARBITRATION (INTERNATIONAL INVESTMENT DISPUTES) ACT 1966

Application and interpretation of this Part

62.12.-(1) This Part applies to the registration of awards under the Arbitration (International Investment Disputes) Act 1966(a).

(2) In this Part-

"the 1966 Act" means the Arbitration (International Investment Disputes) Act 1966;"award" has the meaning assigned to it in section 1(7) of the 1966 Act;"the Convention" means the convention mentioned in section 1(1) of the 1966 Act.

Applications for registration under the 1966 Act

62.13.- (1) An application for recognition or enforcement of an award under Article 54 of the Convention shall be made by petition.

(2) There shall be produced with such a petition an affidavit-

(a) exhibiting a copy of the award certified under the Convention; and

(b) stating-

(i) the full name, title, trade or business and the usual or the last known place of residence or, where appropriate, of the business of the petitioner and of the party against whom the award was made;

(ii) that the petitioner is entitled to have the award registered under the 1966 Act;

(iii) the amount of the award which is unsatisfied;

(iv) whether the enforcement of the award has been sisted (provisionally or otherwise) under the Convention and whether any, and if so what, application has been made under the Convention which, if granted, might result in a sist of enforcement of the award.

Warrant for registration under the 1966 Act

62.14. The court shall, subject to rule 62.17 (sist of enforcement), on being satisfied that the petition complies with the requirements of the 1966 Act, pronounce an interlocutor granting warrant for the registration of the award.

Registration under the 1966 Act

62.15.- (1) Where the court pronounces an interlocutor under rule 62.14 granting warrant for registration, the Deputy Principal Clerk shall enter details of the interlocutor and the award in a register of awards under the 1966 Act.

(2) On presentation by the petitioner to the Keeper of the Registers of-

(a) a certified copy of the interlocutor under rule 62.14,

(b) a certified copy of the award and any translation of it, and

(c) any declaration of currency conversion under rule 62.2(1)(a),

they shall be registered in the register of judgments of the Books of Council and Session.

(3) An extract of the registered award with warrant for execution shall not be issued by the Keeper of the Registers until a certificate of service under rule 62.16 is produced to him.

(a) 1966 c.41.

Service on party against whom award made

62.16. On registration under rule 62.15, the petitioner shall forthwith serve a notice of the registration on the party against whom the award was made in Form 62.16.

Sist of enforcement under the 1966 Act

62.17.- (1) Where it appears to the court that-

- (a) the enforcement of the award has been sisted (whether provisionally or otherwise) under the Convention, or
- (b) any application has been made under 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 the petition for such time as it thinks fit.

(2) Where the court has granted a warrant for registration under rule 62.14, the party against whom the award was made may apply to the court for suspension or interdict of execution of the award.

(3) An application under paragraph (2) shall-

- (a) be made on ground (a) or (b) of paragraph (1);
- (b) notwithstanding rule 60.2 (form of applications for suspension), be made by note in the process of the petition under rule 62.13; and
- (c) be accompanied by an affidavit stating the relevant facts.

PART IV

EU JUDGMENTS

Interpretation of this Part

62.18.-(1) In this Part-

"EU judgment" means any decision, judgment or order which is enforceable under or in accordance with-

- (a) Article 280 or 299 of the Treaty on the Functioning of the European Union. ;
- (b) Article 18, 159 or 164 of the Euratom Treaty;
- (c) Article 44 or 92 of the E.C.S.C. Treaty; or
- (d) Article 82 of the Regulation 40/94 of December 20, 1993^(a) (regulation of the Council of the European Union: on the Community trade mark);

"Euratom inspection order" means an order made by or in the exercise of the functions of the President of the European Court or by the Commission of the European Communities under Article 81 of the Euratom Treaty;

"European Court" means the Court of Justice of the European Communities;

"order for enforcement" means an order by or under the authority of the Secretary of State that the EU judgment to which it is appended is to be registered for enforcement in the United Kingdom.

(2) In paragraph (1), the expressions "Euratom Treaty" and "E.C.S.C. Treaty" have the meanings assigned respectively in Schedule 1 to the European Communities Act 1972^(a).

(3) In paragraph (1), "the Treaty on the Functioning of the European Union" means the treaty referred to in section 1(2)(s) of the European Communities Act 1972.

Register of European EU judgments

62.19. A register shall be kept by the Deputy Principal Clerk for the purpose of registering-

- (a) any EU judgment to which the Secretary of State has attached an order for enforcement;
- (b) any Euratom inspection order; or
- (c) any order of the European Court that enforcement of a registered EU judgment shall be suspended.

Applications for registration of EU judgments

62.20.-(1) An application for registration of a EU judgment or Euratom inspection order shall be made by petition.

(2) Where the application is for registration of a EU judgment under which a sum of money is payable, the petition shall set out-

- (a) the name, trade or business and the usual or last known place of residence or business of the judgment debtor, so far as known to the petitioner; and
- (b) the amount of the judgment which remains unsatisfied.

(3) There shall be produced with a petition referred to in paragraph (1) the EU judgment and the order for its enforcement or the Euratom inspection order, as the case may be, or a copy of it.

^(a) 1972 c.68.

Warrant for registration of EU judgments

62.21.- (1) On an application being made under rule 62.20, the court shall direct that any Euratom inspection order or any EU judgment which has appended to it an order for enforcement shall be entered in the register kept under rule 62.19 and-

- (a) in respect of a EU judgment , subject to paragraph (2), pronounce an interlocutor granting warrant for registration of the judgment in the Books of Council and Session; or
- (b) in respect of a Euratom inspection order, pronounce such interlocutor as is necessary for the purpose of ensuring that effect is given to that order.

(2) Where it appears that a EU judgment under which a sum of money is payable has been partly satisfied at the date of the application under rule 62.20, warrant for registration in the Books of Council and Session shall be granted only in respect of the balance remaining payable at that date.

Registration of EU judgments

62.22.- (1) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of an interlocutor pronounced under rule 62.21(1)(a),
- (b) the EU judgment or a certified copy of it and any translation of it, and
- (c) any declaration of currency conversion under rule 62.2(1)(a),

they shall immediately be registered in the register of judgments of the Books of Council and Session.

(2) On registration under paragraph (1), the Keeper of the Registers shall issue an extract of the registered EU judgment with a warrant for execution.

Service on judgment debtor of EU judgment

62.23. On an interlocutor being pronounced under rule 62.21(1)(a), the petitioner shall forthwith serve a copy of it on the person against whom the EU judgment was given or the Euratom inspection order was made, as the case may be.

Variation or cancellation of registration

62.24.- (1) An application for the variation or cancellation of any registration shall be made by note in the process of the petition under rule 62.20(1).

(2) Where the court grants an application under paragraph (1), it may direct that the entry in the register kept under rule 62.19, and, in the case of variation of a EU judgment, the entry in the Books of Council and Session, shall be varied as sought by the noter.

Suspension of enforcement of EU judgments

62.25.- (1) An order of the European Court that enforcement of a registered EU judgment be suspended-

- (a) shall-
 - (i) on production of the order to the Court of Session, and
 - (ii) on application made by note, be registered forthwith, and
- (b) shall be of the same effect as if the order had been an order made by the Court of Session on the date of its registration suspending the execution of the judgment for the same period and on the same conditions as are stated in the order of the European Court.

(2) No steps to enforce the judgment mentioned in paragraph (1) shall be taken while such an order of the European Court remains in force.

PART V

RECOGNITION AND ENFORCEMENT OF JUDGMENTS UNDER THE CIVIL JURISDICTION AND JUDGMENTS ACT 1982, COUNCIL REGULATION (EC) no 44/2001 OF 22ND DECEMBER 2001, THE CONVENTION ON CHOICE OF COURT AGREEMENTS OF 30TH JUNE 2005 OR UNDER THE LUGANO CONVENTION OF 30TH OCTOBER 2007

Application and interpretation of this Part

62.26. (1) This Part applies to the recognition and enforcement of a judgment under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention.

(2) Unless the context otherwise requires, in this Part-

"the 1982 Act" means the Civil Jurisdiction and Judgments Act 1982;

"Contracting State" has the meaning assigned in section 1(3) of the 1982 Act(a);

"the Council Regulation" means Council Regulation (EC) No 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(b) 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(c)

"the 2005 Hague Convention" means the Convention on Choice of Court Agreements concluded on 30th June 2005 at the Hague(d);

"judgment" includes an authentic instrument or court settlement.

"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(e)

"Member State" has the same meaning as Member State in the Council Regulation.

Disapplication of certain rules to this Part

62.27. The following provisions shall not apply to an application under this Part in addition to those rules mentioned in rule 62.1:-

rule 4.1(1) (printed form for petition),

rule 14.4 (form of petitions).

Enforcement of judgements, authentic instruments or court settlements from another Contracting State, Member State or State bound by the Lugano Convention

62.28.- (1) An application under-

(a) section 4 of, and Article 31 (enforcement of judgment from another Contracting State) or Article 50 (enforcement of authentic instrument or court settlement from another Contracting State) of the Convention in Schedule 1 to, the 1982 Act(f);

(b) Article 38 (enforcement of judgment from Member State), Article 57 (enforcement of authentic instrument from another Member State) or Article 58 (enforcement of court settlement from another Member State) of the Council Regulations;

(a) Section 1(3) of the 1982 Act was amended by the Civil Jurisdiction and Judgments Act 1991

(b) OJ L 12, 16.01.2001, p 1. Repealed by Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p 1) subject to transitional provisions set out in Article 66 of that Regulation.

(c) OJ L 229, 16.11.2005, p 62.

(d) For the text of the Convention see Schedule 3F of the Civil Jurisdiction and Judgments Act 1982 (c.27), as introduced by section 3D(3) of that Act, inserted by section 1 of the Private International Law (Implementation of Agreements) Act 2020 (c.24).

(e) O.J.. No. L338, 21.12.2007 P3.

(f) Section 4 was amended by the Civil Jurisdiction and Judgments Act 1991 (c.12), Schedule 2, paragraph 2 and was extended to authentic instruments and court settlements by S.I.1993/604. Schedule 1 was substituted by S.I.1990/2591. Schedule 3C was inserted by the Civil Jurisdiction and Judgments Act 1991, section 1(3) and Schedule 1.

(ba) section 4B of the 1982 Act (registration and enforcement of judgments under the 2005 Hague Convention)(a); 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).”

shall be made by petition in Form 62.28.

(2) Subject to paragraphs (3), (3AA) and (3AB), there must be produced with the petition-

- (a) an authentic copy of the judgment to be registered;
- (b) a document which establishes that, according to the law of the country in which the judgment has been given, the judgment is enforceable and has been served;
- (c) where judgment has been given in absence (that is to say, in default of appearance), the original or a certified copy of the document which establishes that the party against whom judgment was given in absence was served with the document initiating the proceedings or with an equivalent document;
- (d) where applicable, a document showing that the applicant is in receipt of legal aid in the country in which the judgment was given;
- (e) an affidavit stating-
 - (i) whether the judgment provides for the payment of a sum of money;
 - (ii) whether interest is recoverable on the judgment under the law of the country in which judgment was given, and if so, the rate of interest, the date from which interest is due and the date on which interest ceases to accrue;
 - (iii) an address within the jurisdiction of the court for service on or intimation to the petitioner;
 - (iv) the usual or last known place of residence or business of the person against whom the judgment was given;
 - (v) the grounds on which the petitioner is entitled to enforce the judgment; and
 - (vi) the part of the judgment which is unsatisfied.

(3) Paragraph (2)(b) and (d) do not apply to a petition under Article 38 (enforcement of judgment from another Member State), Article 57 (enforcement of authentic instrument from another Member State) or Article 58 (enforcement of settlement from another Member State) of the Council Regulation but there must be produced with such a petition a certificate under Article 54 (standard form of certificate of judgment), Article 57 (standard form of certificate of authentic instrument) or Article 58 (standard form of certificate of court settlement) of the Council Regulation.

(3AA) For applications to which paragraph (1)(ba) applies, in addition to the information specified in paragraph (2), the following must be produced with the petition—

- (a) the exclusive choice of court agreement, a certified copy thereof, or other evidence of its existence; and
- (b) in the case referred to in Article 12 (judicial settlements) of the 2005 Hague Convention, a certificate of a court of the State of origin that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the State of origin.

(3AB) An application for recognition or enforcement may be accompanied by a certificate issued by a court (including an officer of the court) of the State of origin under Article 13(3) of the 2005 Hague Convention.

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

(a) Section 4B of the Civil Jurisdiction and Judgments Act 1982 (c.27) was inserted by S.I. 2015/1644.

(4) Where the petitioner does not produce a document required under paragraph (2)(a) to (d), (3), (3AA), (3AB) or (3A) , the court may-

- (a) fix a period within which that document is to be lodged;
- (b) accept an equivalent document; or
- (c) dispense with the requirement to produce the document.

Protective measures and interim interdict

62.29.- (1) On lodging a petition, the petitioner may, at any time until the expiry of the period for lodging an appeal referred to in rule 62.34 or 62.34A or its disposal, apply by motion for a warrant for the execution of protective measures.

(2) On lodging such a petition, the petitioner may, at any time until the expiry of the period for lodging an appeal mentioned in rule 62.34 or 62.34A or its disposal, apply by motion for an interim interdict.

Warrant for registration under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention

62.30.- (1) The court shall, on being satisfied that the petition complies with the requirements of the 1982 Act or, as the case may be, the Council Regulation, the 2005 Hague Convention or the Lugano Convention, pronounce an interlocutor-

- (a) granting warrant for the registration of the judgment;
- (b) granting warrant for the execution of protective measures; and
- (c) where necessary, granting decree in accordance with Scots law.

(2) The interlocutor pronounced under paragraph (1) shall specify-

- (a) the period within which an appeal mentioned in rule 62.34 or 62.34A against the interlocutor may be made; and
- (b) that the petitioner-
 - (i) may register the judgment under rule 62.32; and
 - (ii) may not proceed to execution until the expiry of the period for lodging such an appeal or its disposal.

Intimation to petitioner

62.31. Where the court pronounces an interlocutor under rule 62.30(1) granting warrant for registration, the Deputy Principal Clerk shall intimate such interlocutor to the petitioner by sending to his address for service in Scotland a certified copy of the interlocutor by registered post or the first class recorded delivery service.

Registration under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention

62.32.- (1) Where the court pronounces an interlocutor under rule 62.30(1) granting warrant for registration, the Deputy Principal Clerk shall enter the judgment in a register of judgments, authentic instruments and court settlements under the 1982 Act, the Council Regulation, the 2005 Hague Convention and the Lugano Convention kept in the Petition Department.

(2) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of the interlocutor under rule 62.30(1) granting warrant for registration,
- (b) an authentic copy of the judgment and any translation of it, and
- (c) any declaration of currency conversion under rule 62.2(1)(a),

they shall be registered in the register of judgments of the Books of Council and Session.

(3) On registration under paragraph (2), the Keeper of the Registers shall issue an extract of the registered judgment with a warrant for execution.

Service of warrant for registration under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention

62.33. The petitioner shall serve a copy of the interlocutor granting warrant for registration of a judgment and a notice in Form 62.33 on the person liable under the judgment.

Appeals under the 1982 Act, the Council Regulation or the Lugano Convention

62.34.- (1) An appeal under Article 37 of the convention in Schedule 1 to the 1982 Act (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 1982 Act, 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”;

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

(3) Where the respondent in any such appeal is domiciled furth of the United Kingdom-

- (a) in relation to an appeal under paragraph (1), intimation of the motion shall be made to the address for service of the respondent in Scotland; and
- (b) in relation to an appeal under paragraph (2), intimation of the motion shall be made in accordance with rule 16.2 (service furth of United Kingdom) or rule 16.5 (service where address of person is not known), as the case may be.

(4) Where an appeal under paragraph (1) is successful, the court shall, on the motion of the appellant, pronounce an interlocutor recalling any protective measure or interim interdict.

Appeals under section 6B(1) of the 1982 Act (appeals in relation to registration of judgments under the 2005 Hague Convention)

62.34A.—(1) An appeal under section 6B(1) of the 1982 Act (appeals in relation to registration of judgments under the 2005 Hague Convention)(a) is to 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 1982 Act, the Council Regulation, the 2005 Hague Convention 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, State bound by the 2005 Hague Convention or the Lugano Convention.

(2) Where the respondent in any such appeal is domiciled furth of the United Kingdom—

- (a) where that respondent has an address for service in Scotland, intimation of the motion must be made to that address for service; and

(a) Section 6B of the Civil Jurisdiction and Judgments Act 1982 (c.27) was inserted by S.I. 2015/1644.

- (b) in any other case, intimation of the motion must be made in accordance with rule 16.2 (service forth of United Kingdom)(a) or, as the case may be, rule 16.5 (service where address of person is not known).

(3) Where an appeal under paragraph (1) is successful, the court must, on the motion of the appellant, pronounce an interlocutor recalling any protective measure or interim interdict.

Reclaiming under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention

62.35.- (1) Any party dissatisfied with the interlocutor of the Lord Ordinary in any appeal mentioned in rule 62.34 (appeals under the 1982 Act, the Council Regulation, or the Lugano Convention) or rule 62.34A (appeals under section 6B(1) of the 1982 Act) may reclaim on a point of law against that interlocutor.

(2) Where a reclaiming motion under paragraph (1) against the registration of a judgment is successful, the court shall, on the motion of the appellant, pronounce an interlocutor recalling any protective measure or interim interdict.

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 1982 Act, Article 33 of the Council Regulation (recognition of judgment), section 4B of the 1982 Act (registration and enforcement of judgments under the 2005 Hague Convention) or Article 33 of the Lugano Convention (recognition of judgment), an interlocutor pronounced under rule 62.30(1) (warrant for registration under the 1982 Act, the Council Regulation, the 2005 Hague Convention 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 1982 Act (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 1982 Act, 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.

Enforcement of judgments from another part of the United Kingdom in Scotland (money provisions)

62.37.- (1) An application under paragraph 5 of Schedule 6 to the 1982 Act (application for registration in the Court of Session of a certificate in relation to a money provision in a judgment from another part of the United Kingdom) shall be made by presenting to the Keeper of the Registers-

- (a) a certificate under paragraph 4(1) of Schedule 6 to the 1982 Act; and
- (b) any declaration of currency conversion under rule 62.2(1)(a).

(2) On presentation of the certificate mentioned in paragraph (1)(a), the Keeper of the Registers shall-

- (a) register the certificate in the register of judgments of the Books of Council and Session; and
- (b) issue an extract of the certificate with a warrant for execution.

(3) An application under-

(a) Rule 16.2 was last amended by S.I. 2020/942.

- (a) paragraph 9 of Schedule 6 to the 1982 Act (application to sist proceedings for enforcement of a certificate registered under paragraph (2) of this rule), or
- (b) paragraph 10 of Schedule 6 to the 1982 Act (application for reduction of the registration),

shall be made by petition.

Enforcement of judgments from another part of the United Kingdom in Scotland (non-money provisions)

62.38.-(1) An application under paragraph 5 of Schedule 7 to the 1982 Act (application for registration in the Court of Session of a non-money provision in a judgment from another part of the United Kingdom) shall be made by petition in Form 62.38.

(2) There shall be produced with the petition under paragraph (1)-

- (a) a certified copy of the judgment of the original court; and
- (b) a certificate under paragraph 4(1)(b) of Schedule 7 to the 1982 Act.

(3) The petition under paragraph (1) shall be heard by the Lord Ordinary in chambers and shall not require any appearance for the applicant unless the court so requires.

(4) The court shall, on being satisfied that the petition complies with the requirements of section 18 of, and Schedule 7 to, the 1982 Act^(a), pronounce an interlocutor-

- (a) granting warrant for the registration of the judgment; and
- (b) where necessary, granting decree in accordance with Scots law.

(5) Where the court pronounces an interlocutor under paragraph (4), rule 62.32 shall apply to the registration of a judgment under this rule as it applies to the registration of a judgment under that rule.

(6) An application under-

- (a) paragraph 8 of Schedule 7 to the 1982 Act (application to sist proceedings for enforcement of a judgment registered under paragraph (5) of this rule), or
- (b) paragraph 9 of Schedule 7 to the 1982 Act (application to reduce the registration under paragraph (5) of this rule),

shall be made by petition.

Cancellation of registration under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention

62.39. Where-

- (a) an interlocutor under rule 62.30(1) (warrant for registration under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention) is recalled and registration under rule 62.32 (registration under the 1982 Act, the Council Regulation, the 2005 Hague Convention or the Lugano Convention) is ordered to be cancelled after an appeal under Article 37 of the convention in Schedule 1 to the 1982 Act, an appeal under Article 43 of the Council Regulation, an appeal under section 6B of the 1982 Act (appeals in relation to registration of judgments under the 2005 Hague Convention) or an appeal under Article 43 of the Lugano Convention; or
- (b) registration under rule 62.37(2) (registration of judgments from another part of the United Kingdom in Scotland (money provisions)) or rule 62.38(5) (registration of judgments from another part of the United Kingdom in Scotland (non-money provisions)) is reduced,

^(a) Section 18 was amended by S.I. 2003/425.

a certificate to that effect by the Deputy Principal Clerk shall be sufficient warrant to the Keeper of the Registers to cancel the registration and return the judgment, certificate or other documents to the person who applied for registration.

Enforcement in another Contracting State or Member State of Court of Session judgments etc.

62.40.- (1) Subject to paragraph (2ZA), where a person seeks to apply under section 12 of the 1982 Act^(a) for recognition or enforcement in another Contracting State of a judgment given by the court or a court settlement in the court, he shall apply by letter to the Deputy Principal Clerk for—

- (a) a certificate in Form 62.40-A;
- (b) a certified copy of the judgment; and
- (c) if required, a certified copy of the opinion of the court.

(2) Where a person seeks to apply under Chapter III of the Council Regulation for recognition or enforcement in another Member State of a judgment given by the court, the person must apply by letter to the Deputy Principal Clerk for—

- (a) a certificate under Article 54 of the Council Regulation;
- (b) a certified copy of the judgment; and
- (c) if required, a certified copy of the opinion of the court.

(2ZA) Where a person seeks to apply under Chapter III of the 2005 Hague Convention for recognition or enforcement in another Contracting State of a judgment given by the court, that person must apply by letter to the Deputy Principal Clerk for—

- (a) a certificate under Article 13(3) of the 2005 Hague Convention;
- (b) a certified copy of the judgment; and
- (c) if required, a certified copy of the opinion of the court

(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
- (c) if required, a certified copy of the opinion of the court.

(3) The Deputy Principal Clerk shall not issue a certificate under paragraph (1)(a), (2)(a), (2ZA)(a) or 2A(a) unless there is produced to him an execution of service of the judgment on the person on whom it is sought to be enforced.

(4) Where a person seeks to apply under Article 50 of the convention in Schedule 1 to the 1982 Act for enforcement 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 in Form 62.40-B; and
- (b) an extract of the authentic instrument or court settlement.

(5) Where a person seeks to apply under Article 57 or 58 of the Council Regulation for enforcement in another Member State of an authentic instrument or court settlement registered for execution in the Books of Council and Session, the person must apply by letter to the Keeper of the Registers for—

- (a) a certificate under Article 57 or 58 of the Council Regulation; and
- (b) an extract of the authentic instrument or court settlement.

^(a) Section 12 was extended to court settlements by S.I.1993/604

(5ZA) Where a person seeks to apply under Article 12 of the 2005 Hague Convention for enforcement in another Contracting State of a court settlement registered for execution in the Books of Council and Session, that person must apply by letter to the Keeper of the Registers for—

- (a) a certificate under Article 13(1)(e) of the 2005 Hague Convention; and
- (b) an extract of the court settlement.

(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.

(6) The Keeper of the Registers shall not issue a certificate under paragraph (4), (5), (5ZA) or (5A) unless there is produced to him an affidavit verifying that enforcement has not been suspended and that the time available for enforcement has not expired.

Enforcement in another part of the United Kingdom of Court of Session judgments or documents registered for execution (money provisions)

62.41.- (1) Where a person seeks to apply under Schedule 6 to the 1982 Act for enforcement in another part of the United Kingdom of a money provision in a judgment given by the court, he shall apply by letter to the Deputy Principal Clerk for a certificate in Form 62.41-A.

(2) The Deputy Principal Clerk shall not issue a certificate under paragraph (1) unless there is produced to him an affidavit stating-

- (a) the sum or aggregate of sums including interest and expenses payable and unsatisfied;
- (b) that the time for making an appeal against such judgment has expired or such appeal has been finally determined;
- (c) that enforcement of the judgment has not been suspended and the time available for its enforcement has not expired; and
- (d) the address of the party entitled to enforce, and the usual or last known address of the party liable to execution on, the judgment.

(3) Where a person seeks to apply under Schedule 6 to the 1982 Act for enforcement in another part of the United Kingdom of a document 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 in Form 62.41-B; and
- (b) an extract of the document.

(4) The Keeper of the Registers shall not issue a certificate under paragraph (3) unless there is produced to him an affidavit which includes the statements required under paragraph (2)(a), (c) and (d).

Enforcement in another part of the United Kingdom of Court of Session judgments or documents registered for execution (non-money provisions)

62.42.- (1) Where a person seeks to apply under Schedule 7 to the 1982 Act for enforcement in another part of the United Kingdom of a non-money provision in a judgment of the court, he shall apply by letter to the Deputy Principal Clerk for-

- (a) a certificate in Form 62.42-A; and
- (b) a certified copy of such judgment.

(2) The Deputy Principal Clerk shall not issue a certificate under paragraph (1) unless there is produced to him an affidavit stating-

- (a) that the time for making an appeal against such judgment has expired or such appeal has been finally determined; and
- (b) the address of the party entitled to enforce, and the usual or last known address of the party liable to execution on, the judgment or registered document.

(3) Where the Deputy Principal Clerk issues a certificate in Form 62.42-A, he shall attach it to the certified copy judgment.

(4) Where a person seeks to apply under Schedule 7 to the 1982 Act for enforcement in another part of the United Kingdom of a non-money provision in a document 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 in Form 62.42-B; and
- (b) an extract of the document.

(5) The Keeper of the Registers shall not issue a certificate under paragraph (4) unless there is produced to him an affidavit referred to in paragraph (2).

(6) Where the Keeper of the Registers issues a certificate in Form 62.42-B, he shall attach it to the extract of the document.

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)(**a**) 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(**b**);

“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.

(**a**) O.J. L351, 20.12.2012, p. 1.

(**b**) 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.

PART VI

REGISTRATION UNDER THE MERCHANT SHIPPING (LINER CONFERENCES) ACT 1982

Application and interpretation of this Part

62.43.- (1) This part applies to an application under section 9 of the Merchant Shipping (Liner Conferences) Act 1982^a (recognition and enforcement of recommendations, etc., of conciliators).

(2) In this Part, "the Liner Conferences Act" means the Merchant Shipping (Liner Conferences) Act 1982.

Applications for registration under the Liner Conferences Act

62.44.- (1) An application under-

- (a) section 9(1)(b) of the Liner Conferences Act (application for registration for enforcement of a recommendation, determination or award), or
- (b) section 9(3) of that Act (application for registration for enforcement of a determination of costs),

shall be made by petition.

(2) A petition under section 9(1)(b) of the Liner Conferences Act shall include averments in relation to-

- (a) the reasons for the petition; and
- (b) where appropriate, the limited extent to which the recommendation is enforceable under section 9(2) of that Act.

(3) There shall be produced with the petition-

- (a) a certified copy of the recommendation, the reasons for the recommendation and the record of settlement;
- (b) a copy of the acceptance of the recommendation by the parties on whom it is binding.

(4) There shall be produced with a petition under section 9(3) of the Liner Conferences Act a certified copy of the determination of costs.

Warrant for registration under the Liner Conferences Act

62.45. The court, on being satisfied that the recommendation, determination or award may be registered, shall pronounce an interlocutor granting warrant for registration of the recommendation, determination or award, as the case may be.

Registration under the Liner Conferences Act

62.46.- (1) Where the court pronounces an interlocutor under rule 62.45 granting warrant for registration-

- (a) the Deputy Principal Clerk shall enter the warrant in the register of recommendations, determinations and awards to be registered under section 9 of the Liner Conferences Act; and
- (b) the petitioner shall serve a copy of the interlocutor containing such warrant on the party against whom the recommendation, determination or award may be enforced.

^a 1982 C.37.

(2) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of the interlocutor under rule 62.45 granting warrant for registration,
- (b) a certified copy of the recommendation, determination or award to be registered and any translation of it, and
- (c) where necessary, a certificate of currency conversion under rule 62.2(1)(b),

they shall be registered in the register of judgments of the Books of Council and Session.

(3) On registration under paragraph (2), the Keeper of the Registers shall issue an extract of the registered recommendation, determination or award, as the case may be, with a warrant for execution.

PART VII

RECIPROCAL ENFORCEMENT OF ORDERS IN RELATION TO CONFISCATION OF PROCEEDS OF CRIME AND TO FORFEITURE OF PROPERTY USED IN CRIME

Interpretation of this Part

62.47. In this Part-

"the 1989 Act" means the Prevention of Terrorism (Temporary Provisions) Act 1989(**a**);
"the 1995 Act" means the Proceeds of Crime (Scotland) Act 1995(**b**)
"the 2000 Act" means the Terrorism Act 2000;
"money order" means an order for the payment of money;
"non-money order" means an order which is not a money order;
"The Order of 1995" means the Prevention of Terrorism (Temporary Provisions) Act 1989 (Enforcement of External Orders) Order 1995(**c**);
"the Order of 1999" means the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Scotland) Order 1999;
"the Overseas forfeiture Order of 2005" means the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) (Scotland) Order 2005(**d**);
"the POCA Order of 2005" means the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(**e**);
"relevant enactment" means the 1989 Act, the 1995 Act, the 2000 Act, the Order of 1995 the Order of 1999, the Overseas Forfeiture Order of 2005 or the POCA Order of 2005, as the case may be.

Applications for registration under the relevant enactment

62.48.- (1) An application to which this rule applies shall be made by petition.

(2) This rule applies to an application under any of the following provisions:-

- (a) paragraph 19(2) of Schedule 4 to the 1989 Act (application for registration of an England and Wales order, Northern Ireland order or Islands order); and
- (b) section 36(1) of the 1995 Act (application for registration of an order to which section 35 of the 1995 Act applies);
- (c) section 41 of the 1995 Act (application for registration of external confiscation order);
- (d) article 15(1) of the Order of 1995 (application for registration of external forfeiture order in relation to terrorism);
- (e) article 16(1) of the Order of 1995 (application for registration of external restraint order);
- (f) article 5(1) of the Order of 1999 (application for registration of external forfeiture order other than in relation to terrorism);
- (g) paragraph 27(3) of Schedule 4 to the 2000 Act (application for registration of an England and Wales order, Northern Ireland order or Islands order);
- (h) article 13(1) of the Overseas Forfeiture Order of 2005 (applications to give effect to external forfeiture orders);
- (i) article 66(1) of the POCA Order of 2005 (applications to give effect to external orders).

(3) There shall be produced with a petition under paragraph (1) a certified copy of the order which is sought to be registered.

(**a**) 1989 C.4.
(**b**) 1995 c.43.
(**c**) S.I. 1995/760
(**d**) S.S.I. 2005/581.
(**e**) S.I. 2005/3181

Warrant for registration under the relevant enactment

62.49. The court shall, on being satisfied that the application complies with the requirements of the relevant enactment, as the case may be-

- (a) pronounce an interlocutor granting warrant for execution of a non-money order; or
- (b) pronounce an interlocutor granting warrant for the registration of a money order.

Registration under the relevant enactment

62.50.- (1) Where the court pronounces an interlocutor under rule 62.49, the Deputy Principal Clerk shall enter the order in the register for the registration of orders under the relevant enactment.

(2) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of the interlocutor pronounced under rule 62.49(b), and
- (b) a certified copy of the order to be registered,

they shall be registered in the register of judgments of the Books of Council and Session.

(3) On registration under paragraph (2), the Keeper of the Registers shall issue an extract of the registered order with a warrant for execution.

Service of warrant for registration under the relevant enactment

62.51. The petitioner shall serve a copy of the interlocutor, pronounced under rule 62.49 granting warrant for registration, and a notice in Form 62.51 on the person against whom the order may be enforced.

Further provision as respects warrant for registration

62.51A. Where an interlocutor granting warrant for the registration of an external confiscation order is pronounced and the order falls to be remitted for enforcement to the Sheriff of Lothian and Borders at Edinburgh, the Deputy Principal Clerk shall send a certified copy of the interlocutor, within four days after it is pronounced, to the sheriff clerk at Edinburgh.

Suspension of enforcement under the 1995 Act

62.52.- (1) Where an order under section 36(1) of the 1995 Act has been registered under rule 62.50, the court may, on the application of the person against whom the order may be enforced, if satisfied that an application has been made to the court which made the order to have it set aside or quashed-

- (a) suspend enforcement of the order; and
- (b) sist any proceedings for enforcement of the order.

(2) Notwithstanding rule 60.2 (form of applications for suspension), an application under paragraph (1) shall be made by note in the process in the petition under rule 62.48(1).

Modification and cancellation of registration under the 1989 Act or 1995 or 2000

62.53.- (1) An application to modify or cancel the registration of an order under the 1989 Act or 1995 or 2000 registered under rule 62.50 shall be made-

- (a) by the petitioner, by motion; or
- (b) by any other interested party, by note.

(2) There shall be produced with the application under paragraph (1) a certified copy of any order which modifies or revokes the registered order or which causes the order to cease to have effect.

(3) The court shall, on being satisfied-

- (a) that the registered order has been modified, revoked or has ceased to have effect, or

- (b) that the registration of an external confiscation order should be cancelled in terms of section 41(3) of the 1995 Act,

pronounce an interlocutor so modifying or cancelling the registration, as the case may be, and grant warrant for the registration of a certified copy of the interlocutor in the register of judgments of the Books of Council and Session.

(4) Where the court pronounces an interlocutor under paragraph (3), the Deputy Principal Clerk shall modify or cancel the registration in the register kept under rule 62.50(1) in accordance with that interlocutor.

Incidental Applications

62.54.-(1) Any of the following applications shall be made in the prayer of the petition under rule 62.48(1) to which it relates or, if the prayer of that petition has been granted, by motion in the process of that petition:-

- (a) an application under section 32(1) of the 1995 Act^(a) for a warrant for inhibition;
- (b) an application under section 33(1) of the 1995 Act (warrant for arrestment);
- (c) an application under paragraph 16(1) (warrant for inhibition), or paragraph 16A(1) (warrant for arrestment), of Schedule 4 to the 1989 Act^(b) as applied by paragraph 19(5)^(c) of that Schedule or by article 18 of the Order of 1995^(d), as the case may be.

(2) Either of the following applications shall be made in the prayer of the petition under rule 62.48(1) to which it relates or, if the prayer of the petition has been granted, by note in the process of that petition:-

- (a) an application under sub-paragraph (4) of paragraph 19 of Schedule 4 to the 1989 Act for an order in implementation of an England and Wales, Northern Ireland or Islands forfeiture order registered in the Court of Session under that paragraph;
- (b) an application under article 17 of the Order of 1995 for an order in implementation of an external forfeiture order registered in the Court of Session under article 15(1) of that Order.

(3) Where the court makes an order by virtue of paragraph 19(4) of Schedule 4 to the 1989 Act or article 17 of the Order of 1995 appointing an administrator, rules 76.24 to 76.26 (which relate to the duties of an administrator) shall apply to an administrator appointed by virtue of that paragraph or article as they apply to an order in implementation of a forfeiture order.

Cancellation of registration or variation of property under the Overseas Forfeiture Order of 2005 or the POCA Order of 2005

62.54A.-(1) An application under article 16(3) of the Overseas Forfeiture Order of 2005 (application for cancellation of registration or variation of property) or article 69(3) of the POCA Order of 2005 (application for cancellation of registration or variation of property) shall be made-

- (a) by the Lord Advocate, by motion; or
- (b) by any other interested party, by note

^(a) 1995 c.43

^(b) Paragraph 16(1) was amended, and paragraph 16A(1) was inserted, by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 4, paragraph 72(3)

^(c) Paragraph 19(5) of the 1989 Act was amended by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995, Schedule 4, paragraph 72(3)(c)

^(d) S.I. 1995/760

(2) There shall be produced with an application under paragraph (1), a certified copy of any order which modifies or revokes the registered order or which causes the registered order to cease to have effect.

(3) The court shall, on pronouncing an interlocutor granting an application under paragraph (1), grant warrant for the registration of a certified copy of the interlocutor in the register of judgments of the Books of Council and Session.

(4) Where the court pronounces an interlocutor granting an application under paragraph (1), the Deputy Principal Clerk shall cancel or, as the case may be, vary the registration in the register kept under rule 62.50(1) in accordance with that interlocutor.

Registration under the POCA Order in Council of 2005: further provision

62.54B-(1) Rule 62.2 (declaration of currency conversion) shall not apply to an application under article 66(1) of the POCA Order of 2005 (application to give effect to external orders).

(2) An application under article 72(4) (payment within a specified period) or article 72(6) (extension of specified period) of the POCA Order of 2005 shall be made by motion in the process relating to the granting of the application under article 66(1) of the POCA Order of 2005.

(3) The Deputy Principal Clerk shall send to the sheriff clerk appointed under article 69(1)(c) of the POCA Order of 2005 a certified copy of the interlocutor granting warrant for registration under rule 62.49 and of any subsequent interlocutor granting an application under-

- (a) rule 62.54A(1) (application for cancellation of registration or variation of property);
- (b) paragraph (3) of this rule (payment within specified period and extension of specified period);
- (c) rule 76.28(1)(i) (enforcement administrators); or
- (d) rule 76.28(3)(i) (recall and variation of order appointing administrator),

in respect of the registered order.

PART VIII

REGISTRATION OF AWARDS UNDER THE MULTILATERAL INVESTMENT GUARANTEE AGENCY ACT 1988

Registration of awards under the Multilateral Investment Guarantee Agency Act 1988

62.55. Part III shall, with the necessary modifications, apply to an award under Article 4 of Annex II to the convention referred to in section 1(1) of the Multilateral Investment Guarantee Agency Act 1988(**a**) as it applies to an award under the convention mentioned in section 1(1) of the Arbitration (International Investment Disputes) Act 1966(**b**).

a 1988 C.8.
b 1966 C.41.

PART IX
ENFORCEMENT OF ARBITRAL AWARDS UNDER THE NEW YORK CONVENTION ON THE
RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

Interpretation and application of this Part

62.56.—(1) In this Part—

“the 2010 Act” means the Arbitration (Scotland) Act 2010^(a);
“the Convention” means the New York Convention on the Recognition and Enforcement of Foreign
Arbitral Awards;
“Convention award” means an award made in pursuance of a written arbitration agreement in a
territory of a state (other than the United Kingdom) which is a party to the Convention.

(2) This Part applies to an application under section 19 of the 2010 Act (recognition and
enforcement of New York Convention awards).

Applications for enforcement of a Convention award

62.57.—(1) An application for enforcement of a Convention award under section 19(2) of the 2010
Act shall be made by petition or, where there are proceedings depending before the court under the
2010 Act in relation to the same arbitration process, by note in the process of the petition.

(2) There shall be produced with such a petition or note—

- (a) the duly authenticated original award or a certified copy of it;
- (b) the original agreement referred to in article II of the Convention or a certified copy of
it;
- (c) a translation of any award or agreement which is in a language other than English,
certified by an official or sworn translator or by a diplomatic or consular agent;
- (d) an affidavit stating—
 - (i) the full name, title, trade or business and the usual or last known place of
residence or, where appropriate, of the business of the petitioner or noter and
the party against whom the Convention award was made;
 - (ii) the amount of the Convention award which is unsatisfied; and
 - (iii) that the Convention award has become binding on the parties and has not
been set aside or suspended by a court of the country which, or under the
law of which, the award was made.

Registration of Convention award

62.58.—(1) The court, on being satisfied that the Convention award may be registered, shall grant
warrant for registration.

(2) Where the court pronounces an interlocutor under paragraph (1), the Deputy Principal
Clerk shall enter the Convention award in a register of Convention awards.

(3) Where the Keeper of the Registers receives from the petitioner or noter the documents
referred to in paragraph (4), he or she shall register them in the register of judgments of the Books of
Council and Session.

(4) The documents are—

- (a) a certified copy of the interlocutor of the warrant of registration,
- (b) a certified copy of the Convention award to be registered, and any translation of it,
and
- (c) any declaration of currency conversion under rule 62.2(1)(a)..

^(a) 2010 asp 1.

(5) An extract of a registered Convention award with warrant for execution shall not be issued by the Keeper of the Registers until a certificate of service under rule 62.59 (service on party against whom Convention award made) is produced to him or her.

Service on party against whom Convention award made

62.59. On registration under rule 62.58, the petitioner or noter shall forthwith serve a notice of registration on the party against whom the Convention award was made in Form 62.59.

Application for refusal of recognition or enforcement of a Convention award

62.60.—(1) An application under article V of the Convention (requested by party against whom Convention award made for refusal of recognition or enforcement) shall be made by note.

(2) A note referred to in paragraph (1) may crave—

- (a) suspension or interdict of any past or future steps in the execution of the Convention award, including registration or enforcement of the award; and
- (b) recall of the interlocutor pronounced under rule 62.58(1) (registration under the Convention).

(3) The note shall be supported by affidavit and any relevant documentary evidence.

(4) Where any interlocutor pronounced under rule 62.58(1) is recalled, a certificate to that effect issued by the Deputy Principal Clerk shall be sufficient warrant to the Keeper of the Registers to cancel the registration and return the documents registered to the petitioner or noter on whose application the interlocutor under that rule was pronounced.

PART X

RECOGNITION, REGISTRATION AND ENFORCEMENT OF MISCELLANEOUS DECISIONS

Application and interpretation of this Part

62.61.-(1) This Part applies to the recognition, registration or enforcement, as the case may be, of an award, decision, judgment or order under any of the following instruments:-

- (a) Article 34.1 (enforcement of arbitral award) of the procedural rules on conciliation and arbitration of contracts finance by the European Development Fund^(a);
- (b) Article 20 of the United Nations (International Tribunal) Former Yugoslavia) Order 1996^(b) (enforcement of orders for the preservation or restitution of property).
- (c) Article 20 of the United Nations (International Tribunal) (Rwanda) Order 1996 (enforcement of orders for the preservation or restitution of property).

(2) In this Part-

“decision” includes award, judgment or order;

“relevant instrument” means an instrument mentioned in paragraph (1).

Applications under this Part

62.62.-(1) An application for recognition, registration or enforcement, as the case may be, of a decision under a relevant instrument shall be made by petition.

(2) There shall be produced with such a petition an affidavit-

- (a) exhibiting a copy of the decision certified under the relevant instrument; and
- (b) stating-
 - (i) the full name, title, trade or business and the usual or the last known place or residence or, where appropriate, of business of the petitioner and of the party against whom the decision was made;
 - (ii) that the petitioner is entitled to have the decision recognised, registered or enforced, as the case may be, under the relevant instrument;
 - (iii) the extent to which the decision is unsatisfied; and
 - (iv) whether the enforcement of the decision has been sisted (provisionally or otherwise) under the relevant instrument and whether any, and if so what, application has been made under the relevant instrument which, if granted, might result in a sist of enforcement of the decision.

Recognition, or warrant for registration or for enforcement under this Part

62.63. The court shall, on being satisfied that the petition complies with the requirements of the relevant instrument, pronounce an interlocutor recognising or granting warrant for the registration or enforcement of the decision, as the case may be.

Registration for enforcement under this Part

62.64.-(1) Where the court pronounces an interlocutor under rule 62.63 granting warrant for registration or enforcement, as the case may be, the Deputy Principal Clerk shall enter details of the interlocutor and the decision in a register of decisions under this Part.

^(a) Annex V of Decision No. 3/90 of the ACP/EEC Council of Ministers of 29th March 1990 (Official Journal No. L382 of 31st December 1990).

^(b) S.I. 1996/716

(2) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of the interlocutor under rule 62.63,
- (b) a certified copy of the decision and any translation of it, and
- (c) any declaration of currency conversion under rule 62.2(1)(a),

they shall be registered in the register of judgments of the Books of Council and Session.

(3) An extract of a registered decision with warrant for execution shall not be issued by the Keeper of the Registers until a certificate of service under rule 62.65 is produced to him.

Service on party against whom award made

62.65. On registration under rule 62.64, the petitioner shall forthwith serve a notice of registration on the party against whom the decision was made in Form 62.65.

Sist of enforcement under this Part

62.66.-(1) Where it appears to the court that-

- (a) the enforcement of the decision has been sisted (whether provisionally or otherwise) under the relevant instrument, or
- (b) any application has been made under the relevant instrument 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 the petition for such period as it thinks fit.

(2) Where the court has granted a warrant for registration under rule 62.63, the party against whom the decision was made may apply to the court for suspension or interdict of execution of the award.

(3) An application under paragraph (2) shall-

- (a) be made on ground (a) or (b) of paragraph (1);
- (b) notwithstanding rule 60.2 (form of applications for suspension), be made by note in the process of the petition under rule 62.62; and
- (c) be accompanied by an affidavit stating the relevant facts.

PART XI

REGISTRATION AND ENFORCEMENT OF JUDGMENTS UNDER COUNCIL REGULATION (E.C.) NO. 2201/2003 OF 27TH NOVEMBER 2003(a)

Application and interpretation of this Part

62.67.-(1) This Part applies to the registration and enforcement of a judgment under the Council Regulation.

(2) In this Part, unless the context otherwise requires -

“the Council Regulation” means Council Regulation (E.C.) No. 2201/2003 of 27th November 2003 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility;

“judgment” includes an authentic instrument or enforceable agreement; and

“Member State” has the same meaning as in Article 2(3) of the Council Regulation.

Disapplication of certain rules to this Part

62.68. The following rules shall not apply to an application under this Part:—

- 4.1(1) (printed form for petition),
- 14.4 (form of petitions),
- 14.5 (first order in petitions),
- 14.6 (period of notice for lodging answers),
- 14.7 (intimation and service of petitions),
- 14.9 (unopposed petitions).

Enforcement of judgments from another Member State

62.69.-(1) An application under Article 28 of the Council Regulation (enforceable judgments) shall be made by petition in Form 62.69.

(2) There shall be produced with the petition-

- (a) an authentic copy of the judgment to be registered;
- (b) a certificate under Article 39 of the Council Regulation (standard forms of certificate);
- (c) where judgment has been given in absence (that is to say, in default of appearance)-
 - (i) the original or a certified copy of the document which establishes that the party against whom judgment was given in absence was served with the document initiating proceedings or with an equivalent; or
 - (ii) a document indicating that the party against whom the judgment was given in absence has accepted the judgment unequivocally;
- (d) where applicable, a document showing that the applicant is in receipt of legal aid in the country in which the judgment was given;
- (e) an affidavit stating-
 - (i) an address within the jurisdiction of the court for service on or intimation to the petitioner;
 - (ii) the name and address of the petitioner and his interest in the judgment;

- (iii) the name and date of birth of each child in respect of whom the judgment was made, the present whereabouts or suspected whereabouts of that child and the name of any person with whom he is alleged to be;
- (iv) the name and address of any other person with an interest in the judgment;
- (v) whether the judgment is already registered and, if so, where it is registered;
- (vi) details of any order known to the petitioner which affects a child in respect of whom the judgment was made and fulfils the conditions necessary for its recognition in Scotland.

(3) Where the petitioner does not produce a document required by paragraph (2)(b) to (e), the court may -

- (a) fix a period within which that document is to be lodged;
- (b) accept an equivalent document; or
- (c) dispense with the requirement to produce the document.

Warrant for registration under the Council Regulation

62.70.-(1) The court shall, on being satisfied that the petition complies with the requirements of the Council Regulation, pronounce an interlocutor-

- (a) granting warrant for the registration of the judgment; and
- (b) where necessary, granting decree in accordance with Scots law.

(2) The interlocutor pronounced under paragraph (1) shall specify-

- (a) the period within which an appeal mentioned in rule 62.74 (appeals under the Council Regulation) against the interlocutor may be made; and
- (b) that the petitioner-
 - (i) may register the judgment under rule 62.72 (registration under the Council Regulation); and
 - (ii) may not proceed to execution until the expiry of the period for lodging such appeal or its disposal.

Intimation to the petitioner

62.71. Where the court pronounces an interlocutor under rule 62.70(1) the Deputy Principal Clerk shall intimate such interlocutor to the petitioner by sending to his address for service in Scotland a certified copy of the interlocutor by registered post or the first class recorded delivery service.

Registration under the Council Regulation

62.72.-(1) Where the court pronounces an interlocutor under rule 62.70(1) granting warrant for registration, the Deputy Principal Clerk shall enter the judgment in the register of judgments, authentic instruments and court settlements kept in the Petition Department.

(2) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of the interlocutor under rule 62.70(1) granting warrant for registration,
- (b) an authentic copy of the judgment and any translation of it, and
- (c) any declaration of currency conversion under rule 62.2(1)(a) for any order concerning costs and expenses of proceedings under the Council Regulation;

they shall be registered in the register of judgments of the Books of Council and Session.

(3) On registration under paragraph (2), the Keeper of the Registers of Scotland shall issue an extract of the registered document with a warrant for execution.

Service of warrant for registration under the Council Regulation

62.73. The petitioner shall serve a copy of the interlocutor under rule 62.70(1) granting warrant for registration of a judgment and notice in Form 62.73 on the person against whom enforcement is sought.

Appeals under the Council Regulation

62.74.-(1) An appeal under Article 33 (appeals against the enforcement decision) of the Council Regulation shall be made by motion—

- (a) to the Lord Ordinary; and
 - (b) where the appeal is against the granting of warrant for registration under rule 62.70(1) within one month of service under rule 62.73 (service of warrant for registration under the Council Regulation) or within two months of such service where service was executed on a person domiciled in another Member State.
- (2) Where the respondent in any such appeal is domiciled furth of the United Kingdom—
- (a) in relation to an appeal against the granting of warrant for registration under rule 62.70(1), intimation of the motion shall be made to the address for service of the respondent in Scotland;
 - (b) in relation to an appeal against a refusal to grant warrant for registration under rule 62.70(1), intimation of the motion shall be made in accordance with rule 16.2 (service furth of United Kingdom) or rule 16.5 (service where address of the person is not known), as the case may be.

Reclaiming under the Council Regulation

62.75. Any party dissatisfied with the interlocutor of the Lord Ordinary in any appeal mentioned in rule 62.74 (appeals under the Council Regulation) may reclaim on a point of law against that interlocutor.

Recognition of judgments from another Member State

62.76.-(1) For the purpose of Article 21 of the Council Regulation (recognition of a judgment), an interlocutor pronounced under rule 62.70(1) (warrant for registration under the Council Regulation) shall imply recognition of the judgment so dealt with.

(2) In an application under Article 21(3) of the Council Regulation for recognition of a judgment, rules 62.67 to 62.75 shall apply to such an application as they apply to an application under Article 28 of the Council Regulation (declarator of enforceability).

(3) In an application under Article 21(3) of the Council Regulation for non-recognition of a judgment, the rules under this part shall apply to such an application as they apply to an application under Article 28 of the Council Regulation (declarator of enforceability) subject to the following provisions—

- (a) where the application relies on grounds under Article 22(b) or 23(c) of the Council Regulation (judgment given in default of appearance) for the judgment not to be recognised, it shall not be necessary to produce documents required by rule 62.69(2)(c)(document establishing service or acceptance of judgment); and
- (b) rule 62.69(2)(b) (certificate under Article 39 of the Council Regulation) shall not apply.

Cancellation of registration under the Council Regulation

62.77. Where an interlocutor under rule 62.70(1) (warrant for registration under the Council Regulation) is recalled and registration under rule 62.72(2) (registration under the Council Regulation) is ordered to be cancelled after an appeal under Article 33 of the Council Regulation (appeal against decision on enforceability) a certificate to that effect by the Deputy Principal Clerk shall be sufficient warrant to the Keeper of the Registers to cancel the registration and return the judgment, certificate or other documents to the person who applied for registration.

Recognition and Enforcement in another Member State of Court of Session judgments etc.

62.78.-(1) Where a person seeks to apply under the Council Regulation for recognition or enforcement in another Member State of a judgment given by the court, he shall apply by letter to the Deputy Principal Clerk for—

- (a) a certificate under Article 39 of the Council Regulation (certificates concerning judgments in matrimonial matters or on matters of parental responsibility);
- (b) a certified copy of the judgment; and
- (c) if required, a certified copy of the opinion of the court.

(2) If the application is for a certificate concerning a judgment on parental responsibility, the Deputy Principal Clerk shall not issue a certificate under paragraph (1)(a) above unless there is produced to him an execution of service of the judgment on the person against whom it is sought to be enforced.

(3) Where a judgment granting rights of access delivered by the Court of Session acquires a cross-border character after the judgment has been delivered and a party seeks to enforce the judgment in another Member State, he shall apply by letter to the Deputy Principal Clerk for—

- (a) a certificate under Article 41 of the Council Regulation (certificate concerning rights of access); and
- (b) a certified copy of the judgment.

Rectification of certificates under Articles 41 and 42 of the Council Regulation

62.79. Where a party seeks rectification of a certificate issued under Article 41 or 42 of the Council Regulation (certificate concerning rights of access or return of a child) he shall apply by letter to the Deputy Principal Clerk stating the details of the certificate that are to be rectified.

Practical arrangements for the exercise of rights of access

62.80.-(1) An application by a party having an enforceable judgment granting a right of access, that has been certified under Article 41 of the Council Regulation or registered for enforcement, seeking an order making practical arrangements for organising the exercise of rights of access under Article 48 of the Council Regulation, shall be made by petition.

(2) There shall be produced with the petition—

- (a) an authentic copy of the judgment;
- (b) any certificate under Article 41 of the Council Regulation;
- (c) any extract of the registered judgment with a warrant for execution; and
- (d) where applicable, a document showing that the applicant is in receipt of legal aid in the country where the judgment was given.

PART XII

EUROPEAN ENFORCEMENT ORDERS

Interpretation and application of this Part

62.81-(1) In this Part -

“the Regulation” means Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims^(a);

“Council Regulation (EC) No. 44/2001” means Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters from time to time and as applied by the Agreement of 19 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;^(b)

“authentic instrument” has the same meaning as in Article 4(3) of the Regulations;

“court settlement” means a settlement where the debtor has expressly agreed to a claim within the meaning of Article 4(2) of the Regulation by admission or by means of a settlement which has been approved by a court or concluded before a court in the course of proceedings; and

“judgment” has the same meaning as in Article 4(1) of the Regulation.

“Member State of origin” has the same meaning as in Article 4(4) of the Regulation.

(3) This Part applies to judgments, court settlements and authentic instruments on uncontested claims certified as European Enforcement Orders under the Regulation.

(4) Subject to rule 62.84 (certification of authentic instrument), rule 62.87 (rectification or withdrawal of certificate), rule 62.88(1) (application for registration), and rule 62.8(3) (application for refusal, stay or limitation or enforcement), an application shall be made to the Deputy Principal Clerk by letter.

(5) Rule 62/1 shall not apply to a petition under rule 62.88(3) of this Part (application for refusal, stay or limitation of enforcement).

Certification of decree in absence or decree by default

62.82-(1) An application for certification under Article 6(1) (judgment on uncontested claim) or Article 8 (partial European Enforcement Order) of the Regulation shall be accompanied by an affidavit

-

- (a) verifying that the judgment was of an uncontested claim within the meaning of Article 3(1)(b) or (c) of the Regulation and that the court proceedings met the requirements set out in Chapter III of the Regulation (minimum standards for uncontested claims procedures);
- (b) providing the information required by the form of certificate in Annex I to the Regulation (European Enforcement Order - judgment);
- (c) verifying that the judgment is enforceable in Scotland, and does not conflict with the rules of jurisdiction laid down in Articles 3 and 6 of Chapter II of Council Regulation (EC) No. 44/2001; and
- (d) stating that where the debtor was a consumer and the judgment related to a contract concluded by the debtor for a purpose outside his trade or profession the judgment was given in the Member State of the debtors domicile within the meaning of Article 59 of the Council Regulation (EC) No. 44.2001.

^(a) O.J. No. L 143, 30.4.04, p.15

^(b) O.J. No. L012, 16.9.01, p.1

(2) The Deputy Principal Clerk shall not issue a certificate under paragraph (1) unless there is produced to him an execution of service of the judgment on the person against whom it is sought to be enforced.

Certification of court settlement

62.83.- An application for certification under Article 24 of the Regulation (court settlement) shall be accompanied by an affidavit -

- (a) verifying that the debtor admitted the claim or entered into a settlement that was approved by the court or concluded before the court in the course of proceedings and is enforceable in Scotland;
- (b) verifying that the settlement concerned a claim within the meaning of Article 4(2) of the Regulation (payment of money); and
- (c) providing the information required by the form of certificate in Annex II to the Regulation (European Enforcement Order - court settlement).

Certification of authentic instrument

62.84 An application for certification under Article 25(1) of the Regulation (authentic instrument) shall be by letter to the Keeper of the Registers and shall be accompanied by an affidavit -

- (a) verifying that the authentic instrument concerns a claim within the meaning of Article 4(2) of the Regulation (payment of money);
- (b) verifying that the authentic instrument is enforceable in Scotland; and
- (c) providing the information required by the form of certificate in Annex III to the Regulation (European Enforcement Order - authentic instrument).

Certification of lack or limitation of enforceability

62.85. An application for certification under Article 6(2) of the Regulation (lack or limitation of enforceability) shall be accompanied by an affidavit -

- (a) stating the date on which the judgment, court settlement or authentic instrument was certified as a European Enforcement Order; and
- (b) providing the information required by the form of certificate in Annex IV to the Regulation (certificate of lack or limitation of enforceability).

Replacement certificate

62.86. An application under Article 6(3) of the Regulation (replacement certificate) shall be accompanied by an affidavit providing the information required by the form of certificate in Annex V to the Regulation (European Enforcement Order - replacement certificate following a challenge).

Rectification or withdrawal of certificate

62.87 An application under Article 10(1) of the Regulation (rectification or withdrawal of European Order certificate) shall be made in the form set out in Annex VI to the Regulation and, subject to rule 62.1 (disapplication of certain rules in Chapter 14 to this Chapter), shall be treated as a petition.

Registration of enforcement

62.88.-(1) An application for registration for enforcement of a judgment, court settlement or authentic instrument certified as a European Enforcement Order shall be made by presenting to the Keeper of the Registers -

- (a) a certificate under Article 20(2)(b) of the Regulation (European Enforcement Order certificate);
- (b) a copy of the judgment, court settlement, or authentic instrument in accordance with Article 20(2) of the Regulation (enforcement procedure);

- (c) where the certificate under Article 20(2)(b) is in a language other than English, a translation of the certificate into English certified as correct by the translator and stating the full name, address and qualification of the translator; and
- (d) where the European Enforcement Order is expressed in a currency other than sterling, a certificate issued by a competent authority of a Member State of origin of the sterling equivalent of—
 - (i) the principal sum,
 - (ii) interest, and
 - (iii) expenses,
 contained in the judgment, court settlement or authentic instrument, as the case may be, at the rate of exchange prevailing at a date specified under the law of the Member State of origin for obtaining currency conversion in judicial matters.

(2) On presentation of the documents mentioned in sub-paragraphs (a) to (d) of paragraph (1) the Keeper of the Registers shall -

- (a) register the certificate in the register of judgments of the Books of Council and Session; and
 - (b) issue an extract of the certificate with a warrant for execution.
- (3) An application under -
- (a) Article 21 of the Regulation (refusal of enforcement); or
 - (b) Article 23 of the Regulation (stay or limitation of enforcement),

shall be made by petition.

Refusal, stay or limitation of enforcement

62.89. An interlocutor certified by the Deputy Principal Clerk shall be sufficient warrant to the Keeper of the Registers -

- (a) where enforcement is refused under rule 62.88(3)(a), to cancel the registration of the certificate of the European Enforcement Order and return the judgment, certificate or other documents to the petitioner who sought registration; or
- (b) where enforcement is stayed or limited under rule 62.88(3)(b), to -
 - (i) register the interlocutor in the register of judgments of the Books of Council and Session; and
 - (ii) issue an extract of the interlocutor.

PART XIII

UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY

Application and interpretation of this Part

62.90.-(1) This Part applies to applications under the Model Law and applications under the Scottish Provisions.

(2) In this Part -

“application for an interim remedy” means an application under article 19 of the Model Law for an interim remedy by a foreign representative;

“former representative” means a foreign representative who has died or who for any other reason has ceased to be the foreign representative in the foreign proceedings in relation to the debtor;

“main proceedings” means proceedings opened in accordance with Article 3(1) of the EC Insolvency Regulation and falling within the definition of insolvency proceedings in Article 2(a) of the EC Insolvency Regulation^(a);

“the Model Law” means the UNCITRAL Model Law on Cross-Border Insolvency as set out in Schedule 1 to the Cross-Border Insolvency Regulations 2006^(b);

“modification or termination order” means an order by the court pursuant to its powers under the Model Law modifying or terminating recognition of a foreign proceeding, the restraint, sist and suspension referred to in article 20(1) of the Model Law or any part of it or any remedy granted under article 19 or 21 of the Model Law;

“recognition application” means an application by a foreign representative in accordance with article 15 of the Model Law for an order recognising the foreign proceedings in which he has been appointed;

“recognition order” means an order by the court recognising a proceeding as a foreign main proceeding or a foreign non-main proceeding, as appropriate;

“review application” means an application to the court for a modification or termination order;

“the Scottish Provisions” are the provisions of Schedule 3 to the Cross-Border Insolvency Regulations 2006; and

words and phrases defined in the Model Law have the same meaning when used in this Part.

^(a) Council Regulation (EC) 1346/2000, O.J. No. L160, 30.06.00 p.1.

^(b) S.I. 2006/1030

(3) Reference in this Part to a debtor who is of interest to the Financial Services Authority are references to a debtor who -

- (a) is, or has been, an authorized person within the meaning of section 31 of the Financial Services and Markets Act 2000^(a) (authorized persons);
- (b) is, or has been, an appointed representative within the meaning of section 39 (exemption of appointed representatives) of that Act; or
- (c) is carrying on, or has carried on, a regulated activity in contravention of the general prohibition.

(4) In paragraph (3) “the general prohibition” has the meaning given by section 19 of the Financial Services and Markets Act 2000 and the reference to “regulated activity” shall be construed in accordance with -

- (a) section 22 of that Act (classes or regulated activity and categories of investment);
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act (regulated activities).

General

62.91.-(1) Rule 62/1 (disapplication of certain rules to Chapter 62) shall not apply to an application to which this Part relates.

(2) Unless otherwise specified in this Part, an application under the Model Law or the Scottish Provisions shall be made by petition.

(3) For the purposes of the application of rule 14.5(1) (first order for intimation, service and advertisement) to a petition under this Part, where necessary, the petitioner shall seek an order for service of the petition on:-

- (a) the foreign representative;
- (b) the debtor;
- (c) any British insolvency officeholder acting in relation to the debtor;
- (d) any person appointed an administrative receiver of the debtor or as a receiver or manager of the property of the debtor in Scotland;
- (e) any member State insolvency practitioner who has been appointed in main proceedings in relation to the debtor;
- (f) any foreign representative who has been appointed in any other foreign proceedings regarding the debtor;
- (g) if there is pending in Scotland a petition for the winding up or sequestration of the debtor, the petitioner in those proceedings;
- (h) any person who is or may be entitled to appoint an administrator of the debtor under paragraph 14 of Schedule B1 to the Insolvency Act 1986^(b) (appointment of administrator by holder of qualifying floating charge); and
- (i) the Financial Services Authority if the debtor is a debtor who is of interest to that Authority.

(4) On the making of -

- (a) a recognition order;
- (b) an order granting an interim remedy under article 19 of the Model Law;
- (c) an order granting a remedy under article 21 of the Model Law;
- (d) an order confirming the status of a replacement foreign representative; and
- (e) a modification or termination order,

^(a) 2000 C.8.

^(b) 1986 C.45.

the Deputy Principal Clerk shall send a certified copy of the interlocutor to the foreign representative.

Recognition application

62.92.-(1) A petition containing a recognition application shall include averments as to -

- (a) the name of the applicant and his address for service in Scotland;
- (b) the name of the debtor in respect of which the foreign proceeding is taking place;
- (c) the name or names in which the debtor carries on business in the country where the foreign proceedings is taking place and in this country, if other than the name given under sub-paragraph (b);
- (d) the principal or last known place of business of the debtor in Great Britain (if any) and, in the case of an individual, his last known place of residence in Great Britain, (if any);
- (e) any registered number allocated to the debtor under the Companies Act 2006;
- (f) the foreign proceedings in respect of which recognition is applied for, including the country in which it is taking place and the nature of the proceedings;
- (g) whether the foreign proceeding is a proceeding within the meaning of article 2(i) of the Model Law;
- (h) whether the applicant is a foreign representative within the meaning of article 2(j) of the Model Law;
- (i) the address of the debtor's centre of main interest and, if different, the address of its registered office or habitual residence as appropriate;
- (j) if the debtor does not have its centre of main interests in the country where the foreign proceedings is taking place, whether the debtor has an establishment within the meaning of article 2(e) of the Model Law in that country, and if so, its address.

(3) There shall be lodged with the petition -

- (a) an affidavit sworn by the foreign representative as to the matters averred under paragraph (2);
- (b) the evidence and statement required under article 15(2) and (3) respectively of the Model Law;
- (c) any other evidence which in the opinion of the applicant will assist the court in deciding whether the proceeding in respect of which the application is made is a foreign proceeding within the meaning of article 2(i) of the Model Law and whether the applicant is a foreign representative within the meaning of article 2(j) of the Model Law; and
- (d) evidence that the debtor has its centre of main interests or an establishment, as the case may be, within the country where the foreign proceeding is taking place.

(4) The affidavit to be lodged under paragraph (3)(a) shall state whether, in the opinion of the applicant, the EC Insolvency Regulation applies to any of the proceedings identified in accordance with article 15(3) of the Model Law and, if so, whether those proceedings are main proceedings, secondary proceedings or territorial proceedings.

(5) Any subsequent information required to be given to the court by the foreign representative under article 18 of the Model Law shall be given by amendment of the petition.

Application for interim remedy

62.93.-(1) An application for an interim remedy shall be made by note in process.

(2) There shall be lodged with the note an affidavit sworn by the foreign representative stating -

- (a) the grounds on which it is proposed that the interim remedy applied for should be granted;
- (b) the details of any proceeding under British insolvency law taking place in relation to the debtor;
- (c) whether to the foreign representative's knowledge, an administrative receiver or receiver or manager of the debtor's property is acting in relation to the debtor;

- (d) an estimate of the assets of the debtor in Scotland in respect of which the remedy is applied for;
- (e) all other matters that would in the opinion of the foreign representative assist the court in deciding whether or not to grant the remedy applied for, including whether, to the best of the knowledge and belief of the foreign representative, the interests of the debtor's creditors (including any secured creditors or parties to hire-purchase agreements) and any other interested parties, including if appropriate the debtor, are adequately protected; and
- (f) whether to the best of the foreign representative's knowledge and belief, the grant of any of the remedy applied for would interfere with the administration of the foreign main proceedings.

Application for remedy

62.94.-(1) An application under article 21 of the Model Law for a remedy shall be made by note in process.

(2) There shall be lodged with the note an affidavit sworn by the foreign representative stating -

- (a) the grounds on which it is proposed that the remedy applied for should be granted;
- (b) an estimate of the value of the assets of the debtor in Scotland in respect of which the remedy is requested;
- (c) in the case of an application by a foreign representative who is or believes that he is a representative of a foreign non-main proceeding, the reasons why the applicant believes that the remedy relates to assets that, under the law of Great Britain, should be administered in the foreign non-main proceeding or concerns information required in that proceeding; and
- (d) all other matters that would in the opinion of the foreign representative assist the court in deciding whether or not it is appropriate to grant the remedy requested, including whether, to the best of the knowledge and belief of the foreign representative, the interests of the debtor's creditors (including any secured creditors or parties to hire-purchase agreements) and any other interested parties, including if appropriate the debtor, are adequately protected.

Application for confirmation of status of replacement foreign representative

62.95.-(1) An application under paragraph 2(3) of the Scottish Provision for an order confirming the status of a replacement foreign representative shall be made by note in process.

(2) The note shall include averments as to -

- (a) the name of the replacement foreign representative and his address for service within Scotland;
- (b) the circumstances in which the former foreign representative ceased to be foreign representative in the foreign proceeding in relation to the debtor (including the date on which he ceased to be the foreign representative);
- (c) his own appointment as replacement foreign representative in the foreign proceeding (including the date of that appointment).

(3) There shall be lodged with the note -

- (a) an affidavit sworn by the foreign representative as to the matters averred under paragraph (2);
- (b) a certificate from the foreign court affirming -
 - (i) the cessation of the appointment of the former foreign representative as foreign representative, and
 - (ii) the appointment of the applicant as the foreign representative in the foreign proceeding, or
- (c) in the absence of such a certificate, any other evidence acceptable to the court of the matters referred to in sub-paragraph (a).

Review application

62.96.-(1) A review application shall be made by note in process.

- (2) There shall be lodged with the note an affidavit sworn by the applicant as to -
 - (a) the grounds on which it is proposed that the remedy applied for should be granted; and
 - (b) all other matters that would in the opinion of the applicant assist the court in deciding whether or not it is appropriate to grant the remedy requested, including whether, to the best of the knowledge and belief of the applicant, the interests of the debtor's creditors (including any secured creditors or parties to hire-purchase agreements) and any other interested parties, including if appropriate the debtor, are adequately protected.

PART XIV

PARENTAL RESPONSIBILITY AND MEASURES FOR THE PROTECTION OF CHILDREN

Application and interpretation of this Part

62.97.-(1) This Part applies to the registration and enforcement of a measure under Article 24 or Article 26 of the 1996 Convention.

(2) In this Part-

“the 1996 Convention” means the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, signed at The Hague on 19th October 1996(a);

“Contracting State” means a state party to the 1996 Convention.

Enforcement, recognition or non-recognition of measures from a Contracting State

62.98.-(1) An application-

- (a) under Article 24 of the 1996 Convention for recognition or non-recognition of a measure taken in a Contracting State other than the United Kingdom; or
- (b) under Article 26 of the 1996 Convention for enforcement of a measure taken in a Contracting State other than the United Kingdom,

shall be made by petition in Form 62.98

(2) The petition shall include averments on the matters outlined at Article 23(2) of the 1996 Convention (grounds for refusal of recognition).

(3) There shall be produced with the petition an authentic copy of any judgment or other document which outlines the measure to be registered.

(4) The court shall, on being satisfied that the petition complies with the requirements of the 1996 Convention, pronounce an interlocutor-

- (a) granting warrant for the registration of the measure; and
- (b) where necessary, granting decree in accordance with Scots law.

(5) The interlocutor pronounced under paragraph (4) shall specify the petition may register the measure under rule 62.100 (registration under the 1996 Convention).

Intimation to the petitioner

62.99. Where the court pronounces an interlocutor under rule 62.98(4) the Deputy Principal Clerk shall intimate such interlocutor to the petitioner, by sending to his address for service in Scotland a certified copy of the interlocutor by registered post or the first class recorded delivery service.

Registration under the 1996 Convention

62.100.-(1) Where the court pronounces an interlocutor under rule 62.98(4) granting warrant for registration, the Deputy Principal Clerk shall enter the measure in the register of judgments, authentic instruments and court settlements kept in the Petition Department.

(2) On presentation by the petitioner to the Keeper of the Registers of-

- (a) a certified copy of the interlocutor under rule 62.98(4) granting warrant for registration,
- (b) an authentic copy of any judgment or other document which outlines the measure to be registered and any translation of such a document,

they shall be registered in the register of judgments in the Books of Council and Session.

(3) On registration under paragraph (2), the Keeper of the Registers shall issue an extract of the registered document with a warrant for execution.

Service of warrant for registration under the 1996 Convention

62.101. The petitioner shall serve a copy of the interlocutor under rule 62.98(4) granting warrant for registration of a judgment and notice in Form 62.101 on the person against whom enforcement is sought.