
STATUTORY INSTRUMENTS

1993 No. 2346 (S.246)

SHERIFF COURT, SCOTLAND

**Act of Sederunt (Enforcement of Judgments under
the Civil Jurisdiction and Judgments Act 1982)
(Authentic Instruments and Court Settlements) 1993**

Made - - - - 24th September 1993

Coming into force - - 25th October 1993

The Lords of Council and Session, under and by virtue of the powers conferred on them by section 32 of the Sheriff Courts (Scotland) Act 1971(1), sections 12 and 48 of the Civil Jurisdiction and Judgments Act 1982(2), and of all other powers enabling them in that behalf, having approved, with modifications, draft rules submitted to them by the Sheriff Court Rules Council in accordance with section 34 of the 1971 Act, do hereby enact and declare:

Citation and commencement

1.—(1) This Act of Sederunt may be cited as the Act of Sederunt (Enforcement of Judgments under the Civil Jurisdiction and Judgments Act 1982) (Authentic Instruments and Court Settlements) 1993 and shall come into force on 25th October 1993.

(2) This Act of Sederunt shall be inserted in the Books of Sederunt.

Amendment of Act of Sederunt (Enforcement of Judgments under the Civil Jurisdiction and Judgments Act 1982) 1986

2.—(1) The Act of Sederunt (Enforcement of Judgments under the Civil Jurisdiction and Judgments Act 1982) 1986(3) shall be amended in accordance with the following sub-paragraphs.

(2) In paragraph 2 (interpretation), in sub-paragraph (1), after the definition of “the 1982 Act” insert the following definitions:—

““the 1968 Convention” and “the Lugano Convention” have the meanings respectively assigned in section 1 of the 1982 Act;

“authentic instrument” means an instrument referred to in Articles 50 or 51 of the 1968 Convention and the Lugano Convention;

(1) 1971 c. 58.

(2) 1982 c. 27; section 12 was amended by paragraph 7 of, and section 48 by paragraph 23 of, Schedule 2 to the Civil Jurisdiction and Judgments Act 1991 (c. 12), and were applied to authentic instruments and court settlements by S.I.1993/604.

(3) S.I. 1986/1947.

“court settlement” means a settlement referred to in Article 51 of the 1968 Convention and the Lugano Convention; and”.

(3) In paragraph 5 (enforcement of sheriff court interlocutors and decrees in another Contracting State), for the words “rule 10 or 12 of the Ordinary Cause Rules”, substitute the words “rule 5.4 or 5.5 of the Ordinary Cause Rules(4)”.

(4) In paragraph 6(9) (recognition and enforcement in Scotland of foreign maintenance orders), for the words “rule 10 or 15 of the Ordinary Cause Rules”, substitute the words “or rule 5.3 or 5.4 of the Ordinary Cause Rules”.

(5) After paragraph 6, insert the following paragraph:–

“**6A.** –

(1) Paragraphs 5 and 6 shall apply to the recognition and enforcement of an authentic instrument or court settlement as they apply to the recognition and enforcement of a judgment under the 1982 Act, but with such modifications as circumstances may require.

(2) Where paragraph 5 applies in relation to an authentic instrument, an application under section 12 of the 1982 Act shall be made, in writing, to the sheriff clerk for–

(a) a certificate in Form 3A; and

(b) a certified copy of the authentic instrument.”.

(6) In the Schedule, after Form 3 insert Form 3A in the Schedule to this Act of Sederunt.

Edinburgh,
24th September 1993

J.A.D. Hope
Lord President, IPD

(4) The Ordinary Cause Rules in Schedule 1 of the Sheriff Courts (Scotland) Act 1907 (c. 51) was substituted by S.I. 1993/1956.

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SCHEDULE

Paragraph 2(6)

FORM 3A Certificate by sheriff clerk under section 12 of the Civil Jurisdiction and Judgments Act 1982 (Authentic Instruments)

Paragraph 6A(2)

Sheriff Court (*address*)

Authentic Instrument between (*names of parties*)

I, (*name*) sheriff clerk at (*name of court*) Sheriff Court, (*address*) hereby certify:—

1. That the attached copy instrument is a true copy of an authentic instrument registered in the Sheriff Court Books on (*date*).
2. That a copy of the authentic instrument so registered was served on the said (*name of debtor*) on (*date*).
3. That (*state briefly the obligation contained in the authentic instrument*).
4. That enforcement of the authentic instrument has not for the time being been suspended and the time available for enforcement has not expired.
5. That this certificate is issued under section 12 of the Civil Jurisdiction and Judgments Act 1982 as modified by the Civil Jurisdiction and Judgments (Authentic Instruments and Court Settlements) Order 1993.

Dated at (*insert place*) this _____ day of _____ 19 ____ .

Signed
Sheriff Clerk

EXPLANATORY NOTE

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

This Act of Sederunt provides procedures for the enforcement of authentic instruments and court settlements which, in terms of Articles 50 and 51 of Title IV of the 1968 Brussels and Lugano Conventions on jurisdiction and enforcement of judgments in civil and commercial matters in Schedule 1 and 3C respectively to the Civil Jurisdiction and Judgments Act 1982, are enforceable in the same manner as judgments.

It applies to the enforcement of authentic instruments and court settlements, with such modifications as circumstances may require, the procedures for the enforcement of judgments laid down in paragraphs 5 and 6 of the Act of Sederunt (Enforcement of Judgments under the Civil Jurisdiction and Judgments Act 1982) 1986.

It prescribes the form of certificate which must be obtained to accompany an authentic instrument registered in a Sheriff Court Book which it is sought to have recognised or enforced in a Contracting State to the 1968 Convention or the Lugano Convention.

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