Op civielrechtelijk vlak blijven lopende procedures en procedures die voor het eind van de overgangsperiode zijn ingeleid, onder het EU-recht vallen. Zoals overeengekomen met het VK, wordt alle informatie op dat gebied in verband met het Verenigd Koninkrijk tot eind 2024 op het e-justitieportaal bijgehouden.

European enforcement order

Schotland

1. Procedures for rectification and withdrawal (Art. 10(2))

The existing rules of court in both the Sheriff Court and Court of Session in Scotland give effect to the Regulation with any necessary adaptations.

The rules provide that an application for rectification or withdrawal of a European Enforcement Order Certificate is to be in the form set out in Annex VI to the Reulation. The form is to be lodged with the Sheriff Clerk for Sheriff Court applications. Court of Session applications are treated as though they are petitions and should be lodged with the Assistant Clerk of Session in the Court of Session.

Act of Sederunt (Rules of the Court of Session Amendment No. 8) (Miscellaneous) 2005.

Act of Sederunt (Sheriff Court European Enforcement Order Rules) 2005.

The forms and Rules can also be accessed on the Scottish Courts and Tribunals Service website at the link below:

https://www.scotcourts.gov.uk/taking-action/european-applications/european-enforcement-orders

2. Procedures for review (Art.19 (1))

Article 19(1) requires that the debtor must be entitled to apply for a review of the judgment in circumstances where the document instituting the proceedings did not reach him or he was prevented from objecting to the claim through no fault of his own.

The existing rules of court in both the Sheriff Court and Court of Session in Scotland will be used to give effect to the Regulation with any necessary adaptations.

The relevant Sheriff Court Rules and Court of Session Rules are summarised below. The full text of the rules and the relevant forms can be found at: http://www.scotcourts.gov.uk/.

Sheriff Court Rules

Simple Procedure

As from 28 November 2016, if you are raising a claim which has a monetary value of £5000 or less which seeks payment, delivery or recovery of possession of moveable property or an order for someone to do something specific, you should use the Simple Procedure.

Review of the judgment:

There are two types of review - recall of decision and appeal.

Under Rule 13.6 a party may apply for a recall of a decision made by lodging an Application to Recall using Form 13B(1) for decision made before 30 July 2018 or Form 13B(2) for decisions made on or after 30 July 2018 explaining the reasons why the decision should be recalled. The party should also complete a Response Form (Form 4A) and send it to the court along with the appropriate Form 13B.

Under Rule 16.2 a party may appeal to the Sheriff Appeal Court by lodging an Appeal (Form 16A) within 4 weeks from the Decision Form being sent specifying the points of law that the Sheriff Appeal Court is to consider.

The rules in full can be found in the Sheriff Courts section of:

Scot Courts

under the Act of Sederunt governing Simple Procedure. The forms and Standard Orders can be found in the section below that.

- Small claims

  The Small Claims Rules 2002 regulate the procedure for cases where the value of the claim is up to and including £3000. (As from 28 November 2016, if you are raising a claim which has a monetary value of £5000 or less which seeks payment, delivery or recovery of possession of moveable property or an order for someone to do something specific, you should use the Simple Procedure - see above).

  Review of the judgment:

  There are three types of review - recall of decree, appeal and applications in the same claim for variation, etc. of the decree.

  Under Rule 21.10 a party may apply to have a decree varied, discharged or rescinded or the execution of that decree suspended by lodging a minute to that effect, setting out briefly the reasons for the application.

  Under Rule 22.1 a party may apply for recall of a decree granted by lodging with the minute Form 20, explaining the party's failure to appear and stating the proposed defence.

  Under Rule 23.1 a party may appeal to the sheriff principal by lodging a note of appeal in Form 21 not later than 14 days after the date of final decree requesting a stated case and specifying the point of law upon which the appeal is to proceed.

  Under Rule 23.4 an application for leave to appeal against a decision in an application for a time to pay direction or any order connected therewith is made using Form 22 and must specify the question of law upon which the appeal is to proceed. If leave to appeal is granted, the appeal must be lodged using Form 23 and intimated by the appellant to every other party within 14 days of the order granting leave.

  The rules in full can be found in the Sheriff Courts section of the SCTS website: Small Claim Rules and the forms can be found at Small Claim Forms
- Summary Cause

  The Summary Cause Rules 2002 regulate the procedure for cases where the value of the claim is over £3000 and up to and including £5000. (As from 28 November 2016, if you are raising a claim which has a monetary value of £5000 or less which seeks payment, delivery or recovery of possession of moveable property or an order for someone to do something specific, you should use the Simple procedure - see above).

  Review of the judgment:

  There are three types of review - recall of decree, appeal and applications in the same claim for variation, etc. of decree. In addition there are specific provisions for appeals in relation to a time to pay direction.

Under Rule 24.1 a party may apply for recall of a decree granted by lodging a minute using Form 30, explaining the party's failure to appear and stating the proposed defence.

Under Rule 25.1 a party may appeal to the Sheriff Principal by lodging a note of appeal using Form 31 not later than 14 days after the date of final decree requesting a stated case and specifying the point of law upon which the appeal is to proceed.

Under Rule 25.4 an application for leave to appeal against a decision in an application for a time to pay direction or any order connected therewith is made using Form 32 and must specify the question of law upon which the appeal is to proceed. If leave to appeal is granted, the appeal must be lodged using Form 33 and intimated by the appellant to every other party within 14 days of the order granting leave.

The rules in full can be found in the Sheriff Courts section of the SCTS website at: Summary Cause Rules and the form at: Summary Cause Forms.

Ordinary Cause

The Ordinary Cause Rules 1993 regulate the procedure in payment actions where the value of the claim is over £5000.

Review of the judgment:

There are two methods of appeal available with appeals to the Sheriff Principal or the Court of Session as well as the Reponing procedure.

Under Rule 8.1 a defender may apply to recall a decree in absence by lodging a 'reponing note' setting out his proposed defence and explaining his failure to appear. No specific form is prescribed for such an application but it will normally be in the style of an Initial Writ (Form G1). If granted, the action proceeds as if the defender had lodged a notice of intention to defend.

Rule 31.3 provides that an appeal to the Court of Session be made via note of appeal by writing on the principal interlocutor sheets or on a separate sheet and shall be lodged with the sheriff clerk. Rule 31.4 provides that an appeal to the Sheriff Principal be made by lodging a note of appeal in Form A1. Rules 31.1 and 31.2 specify the required time limits.

The rules in full can be found in the Sheriff Courts section of the SCTS website at: Ordinary Cause Rules.

The Rules of the Court of Session 1994

Review of the judgment:

Under Rule 19.2 a defender may apply by motion for recall of the decree and at the same time must lodge defences in process. The action will proceed as if the defences had been lodged timeously.

The rules in full can be found in the Court of Session section of the SCTS website at: Court of Session Rules.

3. Accepted languages (Article 20(2)(c))

Certificates sent to Scotland will be accepted in English.

4. Authorities designated for the purpose of certifying authentic instruments (Art. 25)

Where authentic instruments are recorded for preservation and execution in the Books of Council and Session then the Keeper of the Registers will issue the certificate.

The contact details for the Keeper of the Records are:

Registers of Scotland
Erskine House
68 Queen Street
Edinburgh
EH2 4NF
Tel.: 0845 607 0161
E-Mail: customer.services@ros.gov.uk

Where the instrument is registered in the Sheriff Court books for preservation and execution then the sheriff clerks will issue the certificate. In terms of the Rule 5 of the Sheriff Court European Enforcement Rules, an application for a certification under Article 25(1) of the Regulation shall be accompanied by an affidavit. The details of Sheriff Courts can be found by navigating in the Courts and Tribunals Locations section of the SCTS website under "Court Locations".

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