



# Foreign Judgments (Reciprocal Enforcement) Act 1933

## 1933 CHAPTER 13

### PART I

#### *Registration of Foreign Judgments*

#### **1 Power to extend Part I of Act to foreign countries giving reciprocal treatment**

- (1) His Majesty, if he is satisfied that, in the event of the benefits conferred by this Part of this Act being extended to judgments given in the superior courts of any foreign country, substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of judgments given in the superior courts of the United Kingdom, may by Order in Council direct—
  - (a) that this Part of this Act shall extend to that foreign country; and
  - (b) that such courts of that foreign country as are specified, in the Order shall be deemed superior courts of that country for the purposes of this Part of this Act.
- (2) Any judgment of a superior court of a foreign country to which this Part of this Act extends, other than a judgment of such a court given on appeal from a court which is not a superior court, shall be a judgment to which this Part of this Act applies, if—
  - (a) it is final and conclusive as between the parties thereto; and
  - (b) there is payable thereunder a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty; and
  - (c) it is given after the coming into operation of the Order in Council directing that this Part of this Act shall extend to that foreign country.
- (3) For the purposes of this section, a judgment shall be deemed to be final and conclusive notwithstanding that an appeal may be pending against it, or that it may still be subject to appeal, in the courts of the country of the original court.

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- (4) His Majesty may by a subsequent Order in Council vary or revoke any Order previously made under this section.

## **2 Application for, and effect of, registration of foreign judgment**

- (1) A person, being a judgment creditor Under a judgment to which this Part of this Act applies, may apply to the High Court at any time within six years after the date of the judgment, or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in the High Court, and on any such application the court shall, subject to proof of the prescribed matters and to the other provisions of this Act, order the judgment to be registered :

Provided that a judgment shall not be registered if at the date of the application—

- (a) it has been wholly satisfied ; or
  - (b) it could not be enforced by execution in the country of the original court.
- (2) Subject to the provisions of this Act with respect to the setting aside of registration—
- (a) a registered judgment shall, for the purposes of execution, be of the same force and effect; and
  - (b) proceedings may be taken on a registered judgment ; and
  - (c) the sum for which a judgment is registered shall carry interest; and
  - (d) the registering court shall have the same control over the execution of a registered judgment;

as if the judgment had been a judgment originally given in the registering court and entered on the date of registration:

Provided that execution shall not issue on the judgment so long as, under this Part of this Act and the Rules of Court made thereunder, it is competent for any party to make an application to have the registration of the judgment set aside, or, where such an application is made, until after the application has been finally determined.

- (3) Where the sum payable under a judgment which is to be registered is expressed in a currency other than the currency of the United Kingdom, the judgment shall be registered as if it were a judgment for such sum in the currency of the United Kingdom as, on the basis of the rate of exchange prevailing at the date of the judgment of the original court, is equivalent to the sum so payable.
- (4) If at the date of the application for registration the judgment of the original court has been partly satisfied, the judgment shall not be registered in respect of the whole sum payable under the judgment of the original court, but only in respect of the balance remaining payable at that date.
- (5) If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.
- (6) In addition to the sum of money payable under the judgment of the original court, including any interest which by the law of the country of the original court becomes due under the judgment up to the time of registration, the judgment shall be registered

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for the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgment from the original court.

### **3 Rules of court**

- (1) The power to make rules of court under section ninety-nine of the Supreme Court of Judicature (Consolidation) Act, 1925, shall, subject to the provisions of this section, include power to make rules for the following purposes—
- (a) For making provision with respect to the giving of security for costs by persons applying for the registration of judgments;
  - (b) For prescribing the matters to be proved on an application for the registration of a judgment and for regulating the mode of proving those matters;
  - (c) For providing for the service on the judgment debtor of notice of the registration of a judgment;
  - (d) For making provision with respect to the fixing of the period within which an application may be made to have the registration of the judgment set aside and with respect to the extension of the period so fixed;
  - (e) For prescribing the method by which any question arising under this Act whether a foreign judgment can be enforced by execution in the country of the original court, or what interest is payable under a foreign judgment under the law of the original court, is to be determined;
  - (f) For prescribing any matter which under this Part of this Act is to be prescribed.
- (2) Rules made for the purposes of this Part of this Act shall be expressed to have, and shall have, effect subject to any such provisions contained in Orders in Council made under section one of this Act as are declared by the said Orders to be necessary for giving effect to agreements made between His Majesty and foreign countries in relation to matters with respect to which there is power to make rules of court for the purposes of this Part of this Act.

### **4 Cases in which registered judgments must, or may, be set aside**

- (1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment—
- (a) shall be set aside if the registering court is satisfied—
    - (i) that the judgment is not a judgment to which this Part of this Act applies or was registered in contravention of the foregoing provisions of this Act; or
    - (ii) that the courts of the country of the original court had no jurisdiction in the circumstances of the case; or
    - (iii) that the judgment debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on him in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear; or
    - (iv) that the judgment was obtained by fraud; or
    - (v) that the enforcement of the judgment would be contrary to public policy in the country of the registering court; or
    - (vi) that the rights under the judgment are not vested in the person by whom the application for registration was made;

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- (b) may be set aside if the registering court is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a final and conclusive judgment by a court having jurisdiction in the matter.
- (2) For the purposes of this section the courts of the country of the original court shall, subject to the provisions of subsection (3) of this section, be deemed to have had jurisdiction—
- (a) in the case of a judgment given in an action in personam—
    - (i) if the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings otherwise than for the purpose of protecting, or obtaining the release of, property seized, or threatened with seizure, in the proceedings or of contesting the jurisdiction of that court; or
    - (ii) if the judgment debtor was plaintiff in, or counter-claimed in, the proceedings in the original court; or
    - (iii) if the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the country of that court; or
    - (iv) if the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted resident in, or being a body corporate had its principal place of business in, the country of that court; or
    - (v) if the judgment debtor, being a defendant in the original court, had an office or place of business in the country of that court and the proceedings in that court were in respect of a transaction effected through or at that office or place;
  - (b) in the case of a judgment given in an action of which the subject matter was immovable property or in an action in rem of which the subject matter was moveable property, if the property in question was at the time of the proceedings in the original court situate in the country of that court;
  - (c) in the case of a judgment given in an action other than any such action as is mentioned in paragraph (a) or paragraph (b) of this subsection, if the jurisdiction of the original court is recognised by the law of the registering court.
- (3) Notwithstanding anything in subsection (2) of this section, the courts of the country of the original court shall not be deemed to have had jurisdiction—
- (a) if the subject matter of the proceedings was immovable property outside the country of the original court; or
  - (b) except in the cases mentioned in sub-paragraphs (i), (ii) and (iii) of paragraph (a) and in paragraph (c) of subsection (2) of this section, if the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the country of that court; or
  - (c) if the judgment debtor, being a defendant in the original proceedings, was a person who under the rules of public international law was entitled to immunity from the jurisdiction of the courts of the country of the original court and did not submit to the jurisdiction of that court.

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## **5 Powers of registering court on application to set aside registration**

- (1) If, on an application to set aside the registration of a judgment, the applicant satisfies the registering court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment, the court, if it thinks fit, may, on such terms as it may think just, either set aside the registration or adjourn the application to set aside the registration until after the expiration of such period as appears to the court to be reasonably sufficient to enable the applicant to take the necessary steps to have the appeal disposed of by the competent tribunal.
- (2) Where the registration of a judgment is set aside under the last foregoing subsection, or solely for the reason that the judgment was not at the date of the application for registration enforceable by execution in the country of the original court, the setting aside of the registration shall not prejudice a further application to register the judgment when the appeal has been disposed of or if and when the judgment becomes enforceable by execution in that country, as the case may be.
- (3) Where the registration of a judgment is set aside solely for the reason that the judgment, notwithstanding that it had at the date of the application for registration been partly satisfied, was registered for the whole sum payable thereunder, the registering court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

## **6 Foreign judgments which can be registered not to be enforceable otherwise**

No proceedings for the recovery of a sum payable under a foreign judgment, being a judgment to which this Part of this Act applies, other than proceedings by way of registration of the judgment, shall be entertained by any court in the United Kingdom.

## **7 Power to apply Part I of Act to British dominions, protectorates and mandated territories**

- (1) His Majesty may by Order in Council direct that this Part of this Act shall apply to His Majesty's dominions outside the United Kingdom and to judgments obtained in the courts of the said dominions as it applies to foreign countries and judgments obtained in the courts of foreign countries, and, in the event of His Majesty so directing, this Act shall have effect accordingly and Part II of the Administration of Justice Act, 1920, shall cease to have effect except in relation to those parts of the said dominions to which it extends at the date of the Order.
- (2) If at any time after His Majesty has directed as aforesaid an Order in Council is made under section one of this Act extending Part I of this Act to any part of His Majesty's dominions to which the said Part II extends as aforesaid, the said Part II shall cease to have effect in relation to that part of His Majesty's dominions.
- (3) References in this section to His Majesty's dominions outside the United Kingdom shall be construed as including references to any territories which are under His Majesty's protection and to any territories in respect of which a mandate under the League of Nations has been accepted by His Majesty.