

AN ACT TO FACILITATE THE RECIPROCAL
ENFORCEMENT OF JUDGMENTS

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of ,
enacts as follows:

- Short title **1.** This Act may be cited as “The Reciprocal Enforcement
of Judgments Act”.
- Interpretation
“judgment” **2.—(1)** In this Act,
 (a) “judgment” means a judgment or order of a court in a
 civil proceeding, whether given or made before or after
 the commencement of this Act, whereby a sum of money
 is made payable, and includes an award in an arbitration
 proceeding if the award, under the law in force in the
 state where it was made, has become enforceable in the
 same manner as a judgment given by a court in that state,
 but does not include an order for the periodical payment
 of money as alimony or as maintenance for a wife or
 former wife or reputed wife or a child or any other de-
 pendant of the person against whom the order was made;
- “judgment
creditor” (b) “judgment creditor” means the person by whom the
 judgment was obtained, and includes his executors, ad-
 ministrators, successors, and assigns;
- “judgment
debtor” (c) “judgment debtor” means the person against whom the
 judgment was given, and includes any person against
 whom the judgment is enforceable in the state in which
 it was given;
- “original
court” (d) “original court” in relation to a judgment means the court
 by which the judgment was given;
- “registering
court” (e) “registering court” in relation to a judgment means the
 court in which the judgment is registered under this Act.
- (2) All references in this Act to personal service mean actual
delivery of the process, notice, or other document, to be served,
to the person to be served therewith personally; and service shall
not be held not to be personal service merely because the serv-
ice is effected outside the state of the original court.

3.—(1) Where a judgment has been given in a court in a reciprocating state, the judgment creditor may apply to the ^{Application for registration of judgment}

Court (name of appropriate court in province) within six years after the date of the judgment to have the judgment registered in that court, and on any such application the court may order the judgment to be registered.

(2) An order for registration under this Act may be made ^{Application ex parte} *ex parte* in any case in which the judgment debtor,

- (a) was personally served with process in the original action; or
- (b) though not personally served, appeared or defended, or attorned or otherwise submitted to the jurisdiction of the original court,

and in which, under the law in force in the state where the judgment was made, the time within which an appeal may be made against the judgment has expired and no appeal is pending or an appeal has been made and has been disposed of.

(3) In a case to which subsection (2) applies, the application shall be accompanied by a certificate issued from the original court and under its seal and signed by a judge thereof or the clerk thereof. ^{Certificate from original court required}

(4) The certificate shall be in the form set out in the Schedule, ^{Form of certificate} or to the like effect, and shall set forth the particulars as to the matters therein mentioned.

(5) In a case to which subsection (2) does not apply, such notice of the application for the order as is required by the rules or as the judge deems sufficient shall be given to the judgment debtor. ^{Notice of application in other cases}

(6) No order for registration shall be made if it is shown by the judgment debtor to the court to which application for registration is made that, ^{Conditions of registration}

- (a) the original court acted either
 - (i) without jurisdiction under the conflict-of-laws rules of the court to which application is made, or
 - (ii) without authority, under the law in force in the state where the judgment was made, to adjudicate concerning the cause of action or subject matter that resulted in the judgment or concerning the person of the judgment debtor; or
- (b) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the

state of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court; or

- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the state of that court or had agreed to submit to the jurisdiction of that court; or
- (d) the judgment was obtained by fraud; or
- (e) an appeal is pending or the time within which an appeal may be taken has not expired; or
- (f) the judgment was in respect of a cause of action that for reasons of public policy or for some similar reason would not have been entertained by the registering court; or
- (g) the judgment debtor would have a good defence if an action were brought on the judgment.

Method of registration

(7) Registration may be effected by filing the order and an exemplification or a certified copy of the judgment with the (proper officer) of the court in which the order was made, whereupon the judgment shall be entered as a judgment of that court.

Jurisdiction to issue certificate

4. Where the original court is a court in the Province (or Territory) of (*insert name of enacting province or territory*) that court has jurisdiction to issue a certificate for the purposes of registration of a judgment in a reciprocating state.

Conversion to Canadian currency

5. Where a judgment sought to be registered under this Act makes payable a sum of money expressed in a currency other than the currency of Canada, the registering court, or, where that court is the (Supreme) Court, the (registrar) of that court, shall determine the equivalent of that sum in the currency of Canada on the basis of the rate of exchange prevailing at the date of the judgment in the original court, as ascertained from any branch of any chartered bank; and the registering court or the (registrar), as the case may be, shall certify on the order for registration the sum so determined expressed in the currency of Canada; and, upon its registration, the judgment shall be deemed to be a judgment for the sum so certified.

Where judgment is in a language other than (English)

6. Where a judgment sought to be registered under this Act is in a language other than the (English) language, the judgment

or the exemplification or certified copy thereof, as the case may be, shall have attached thereto for all purposes of this Act a translation in the (English) language approved by the court, and upon such approval being given the judgment shall be deemed to be in the (English) language.

7. Where a judgment is registered under this Act, Effect of registration
- (a) the judgment, from the date of the registration, is of the same force and effect as if it had been a judgment given (or entered) originally in the registering court on the date of the registration and proceedings may be taken thereon accordingly, except that where the registration is made pursuant to an *ex parte* order, no sale or other disposition of any property of the judgment debtor shall be made under the judgment before the expiration of the period fixed by clause (b) of subsection (1) of section 8 or such further period as the registering court may order;
 - (b) the registering court has the same control and jurisdiction over the judgment as it has over judgments given by itself; and
 - (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original court and of the application for registration, are recoverable in like manner as if they were sums payable under the judgment if such costs are taxed by the proper officer of the registering court and his certificate thereof is endorsed on the order for registration.

8.—(1) Where a judgment is registered pursuant to an *ex parte* ^{orders} order,

- (a) within one month after the registration or within such further period as the registering court may at any time order, notice of the registration shall be served upon the judgment debtor in the same manner as a (writ of summons or statement of claim) is required to be served; and
- (b) the judgment debtor, within one month after he has had notice of the registration, may apply to the registering court to have the registration set aside.

(2) On such an application the court may set aside the registration upon any of the grounds mentioned in subsection (6) of section 3 and upon such terms as the court thinks fit.

Application for
garnishment
order

9.—(1) At the time of, or after, making an application under section 3, the applicant may further apply, *ex parte*, to the registering court for an order that all debts, obligations, and liabilities owing, payable, or accruing due to the judgment debtor from such person as may be named in the application be attached.

Making of
garnishing
order

(2) A judge of the registering court, upon considering the application for registration of the judgment and the certificate of the original court accompanying it, and upon production of such further evidence as he may require, may, if he deems it proper, make the order mentioned in subsection (1); and the order when made shall be deemed to be a garnishment order before judgment, and the rules of the registering court with respect to such garnishment orders shall apply thereto.

NOTE:—The inclusion of section 9 to be optional in each adopting province; and, if adopted, the wording to be varied to suit the procedure in the courts of the province.

Rules of
practice

10. Rules of court may be made respecting the practice and procedure, including costs, in proceedings under this Act; and, until rules are made under this section, the rules of the registering court, including rules as to costs, *mutatis mutandis*, apply. (This section to be changed to suit the rule-making procedures in the province.)

Exercise of
powers

11. Subject to the rules of court, any of the powers conferred by this Act on a court may be exercised by a judge of that court.

Reciprocating
jurisdictions
establishment

12.—(1) Where the Lieutenant-Governor in Council is satisfied that reciprocal provisions will be made by a state in or outside Canada for the enforcement therein of judgments given in (name of province), he may by order declare it to be a reciprocating state for the purposes of this Act.

Disestablish-
ment

(2) The Lieutenant-Governor in Council may revoke any order made under subsection (1) and thereupon the state with respect to which the order was made ceases to be a reciprocating state for the purposes of this Act.

Saving

13. Nothing in this Act deprives a judgment creditor of the right to bring action on his judgment, or on the original cause of action,

(a) after proceedings have been taken under this Act; or

(b) instead of proceeding under this Act,

and the taking of proceedings under this Act, whether or not the judgment is registered, does not deprive a judgment creditor of

the right to bring action on the judgment or on the original cause of action.

14. This Act shall be so interpreted as to effect its general purpose of making uniform the law of the provinces that enact it.

SCHEDULE

Under The Reciprocal Enforcement of Judgments Act of the Province of

CERTIFICATE.

CANADA

Province of

(or as the case may be)

To all to whom these Presents shall come .. GREETING: It is hereby certified that, among the records enrolled in the court of. . . . at, before the Honourable a Justice (Judge) of the said Court, in the Procedure Book there is record of an action, numbered as No.

BETWEEN:

Plaintiff(s) and Defendant(s)

- 1. The writ of summons (statement of claim) (or as the case may be) was issued on the day of 19 , and proof was furnished to this court that it was served on the defendant by delivery of a copy thereof to him and leaving it with him.
2. No defence was entered, and the judgment was allowed by (proof, default, or order)
or
2. A defence was entered and judgment was allowed at the trial (or as the case may be)
3. Judgment was given on the day of 19
4. Time for appeal has expired and no appeal is pending (or An appeal against the judgment was made and was dismissed by the Court of Appeal and the time for any further appeal has expired and no further appeal is pending, or as the case may be.)

5. Further details if any.

6. Particulars:

Claim as allowed.....	\$
Costs to judgment.....	\$
Subsequent costs.....	\$
Interest	\$
		\$-----
Paid on.....	\$
And the balance remaining due on said judgment for debt, interest and costs is the sum of.	\$-----

All and singular which premises by the tenor of these presents we have commanded to be certified.

IN TESTIMONY WHEREOF we have caused the Seal of our said Court at.....to be hereunto affixed.

WITNESS, The Honourable. a Justice (Judge) of our said Court at.....this..... day ofA.D. 19. ..

SEAL

A Justice (Judge) of the Court of
or
Clerk of the Court of