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UNIFORM LAW CONFERENCE OF CANADA

**DRAFT - UNIFORM ENFORCEMENT OF CANADIAN
JUDGMENTS ACT (2023)**

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UNIFORM ENFORCEMENT OF CANADIAN JUDGMENTS ACT

The Uniform Enforcement of Canadian Judgments Act (“UECJA”) was originally adopted (under the title Uniform Enforcement of Canadian Judgments and Decrees Act) in 1998 to better facilitate the enforcement of judgments (and certain tribunal orders) across Canada. It was amended in 2004, 2005, 2008 and 2011. These amendments expanded its scope to cover tax judgments and civil protection orders. It is now being consolidated and revised as a new uniform statute.

The UECJA is based on the notion that as a general rule a party seeking to enforce a Canadian judgment in a province or territory which has enacted the UECJA should face no additional substantive or procedural barriers beyond those which govern the enforcement of judgments of the local courts.

Where the UECJA has been adopted, judgments from any other province or territory can be enforced under it. It does not matter whether the province or territory in which the judgment was rendered has itself adopted the UECJA. In other words, no reciprocity is required. This approach is broadly consistent with key decisions such as *Morguard Investments Ltd. v. De Savoye*, [1990] 3 S.C.R. 1077 and is in contrast to that of the older Uniform Reciprocal Enforcement of Judgments Act (“UREJA”).

The scheme of the UECJA requires a defendant sued in Canada to raise any concerns about the jurisdiction of the court in which that defendant is sued as part of the initial litigation. It achieves this by precluding a subsequent challenge to jurisdiction at the enforcement stage. In contrast, the common law, the *Civil Code of Quebec*, CQLR c CCQ-1991 and the UREJA allow the defendant significant scope to challenge, as part of the enforcement process, the jurisdiction of the rendering court. The UECJA adopts the approach that within the Canadian federation the courts of one province or territory should not review or assess the taking of jurisdiction by the courts of another province or territory.

An important feature of the UECJA is that it provides a mechanism for the enforcement of non-money judgments. This represents an advance on statutory schemes limited only to monetary judgments such as the UREJA. It is also consistent with subsequent developments in the common law, such as *Pro Swing Inc. v. Elta Golf Inc.*, [2006] 2 S.C.R. 612, which have accepted the enforceability of non-monetary judgments.

In some contexts, the UECJA uses the term “enforce” as it is understood in the field of private international law, which means to make the judgment enforceable in the forum in the same manner and extent as is a domestic judgment of the forum. The means by which the judgment is enforced, in the separate sense of being executed, is under the procedures of the forum. In some contexts, such as sections 5 and 6, “enforce” is used in that sense.

**DRAFT – UNIFORM ENFORCEMENT OF CANADIAN JUDGMENTS ACT
(2023)**

**PART 1
Preliminary Matters**

Definitions

1(1) In this Act,

“Canadian civil protection order” means a Canadian judgment or a portion of a Canadian judgment that prohibits a person from

- (a) being in physical proximity to a specified person or following a specified person from place to place;
- (b) contacting or communicating with a specified person, directly or indirectly;
- (c) attending at or within a certain distance of a specified place or location; or
- (d) engaging in molesting, annoying, harassing or threatening conduct directed at a specified person; (« *ordonnance civile de protection au Canada* »)

Comment: The definition includes any Canadian judgment or portion of a Canadian judgment that orders protection for an individual from another individual. This wording covers behaviour prohibited in civil protection orders pursuant to provincial/territorial legislation and in *Criminal Code*, RSC 1985, c C-46 provisions and thereby addresses a broad range of behaviour that could intimidate, threaten or otherwise endanger another individual whether through direct contact or indirect harassment.

Subsection 3(3) provides that where a Canadian judgment includes a portion that cannot be enforced under the statute, the balance of that judgment that is enforceable shall be enforced. The definition of Canadian civil protection order adopts this same approach by referring to a “portion” of a Canadian judgment so that where there is a judgment that has, as one of its component elements, a prohibition that falls within the definition then it may be severed from the main judgment and independently enforced as a Canadian civil protection order.

“Canadian judgment” means

- (a) a Canadian tax judgment; or
- (b) a judgment, decree or order mentioned in subsection (2), but does not include a judgment, decree or order mentioned in subsection (3); (« *jugement canadien* »)

“Canadian tax judgment” means

- (a) a judgment for the recovery of an amount of money payable under an Act imposing a tax made by a court of a province or territory of Canada other than [enacting province or territory]; or
- (b) a certificate of an amount payable under an Act imposing a tax that is registered in a court of a province or territory of Canada other than [enacting province or

territory] and that is deemed under the law of that province or territory to be a judgment of that court; (« *jugement canadien de nature fiscale* »)

Comment: While it remains common to refuse to recognize and enforce the revenue and tax judgments of foreign countries, at least in the absence of applicable tax treaties, such judgments from within Canada do not give rise to the same concerns. The UECJA therefore extends the meaning of a Canadian judgment to include Canadian tax judgments, as defined. To be considered a tax, the levy must be enforceable by law, imposed under the authority of the legislature, levied by a public body and intended for a public purpose: *Eurig Estate (Re)*, [1998] 2 S.C.R. 565 at para. 15.

Part of the definition removes an ambiguity by expressly including a certificate of an amount payable under a tax law registered in a court of a province or territory.

“**enforcement**” includes requiring that a Canadian judgment be recognized by any person or authority whether or not further relief is sought; (« *exécution* »)

“**enforcing party**” means a person entitled to enforce a Canadian judgment in the province or territory where the judgment was made; (« *partie exécutante* »)

“**registered Canadian judgment**” means a Canadian judgment that is registered under this Act. (« *jugement canadien enregistré* »)

(2) Subject to subsection (3), “Canadian judgment”, for the purposes of clause (b) of the term as defined in subsection (1), means a judgment, decree or order made in a civil proceeding by a court of a province or territory of Canada other than [enacting province or territory]

(a) that requires a person to pay money, including an order for the payment of money that is made in the exercise of a judicial function by a tribunal of a province or territory of Canada other than [enacting province or territory] and that is enforceable as a judgment of the superior court of unlimited trial jurisdiction in that province or territory;

(b) under which a person is required to do or not do an act or thing; or

(c) that declares rights, obligations or status in relation to a person or thing.

Comment: A central concept of the UECJA is the Canadian judgment. The term first receives an expansive definition in paragraphs 1(2)(a) to (c) which is then narrowed by the exclusions in subsection 1(3). The judgment must have been made in a “civil proceeding”.

Paragraph 1(2)(a) addresses orders for the payment of money. These include certain kinds of “deemed judgments,” namely claims which provincial statutes permit to be enforced as judgments although they have not been the subject of formal litigation in a court. In this context only orders of tribunals which exercise a judicial function qualify for enforcement. The definition does not extend to “deemed judgments” based on a certificate of an administrator stating that money is owed to an emanation of government.

Paragraph 1(2)(b) addresses orders such as injunctions and those for specific performance. Paragraph 1(2)(c) addresses orders that operate to define certain rights or relationships. These might include adult guardianship orders. It also includes orders which are purely declaratory.

(3) “Canadian judgment”, for the purposes of clause (b) of the term as defined in subsection (1), does not include a judgment, decree or order that

(a) is for maintenance or support;

(b) is for the payment of money as a penalty or fine for committing an offence;

(c) relates to the care, control or welfare of a minor, other than a Canadian civil protection order;

(d) is made by a tribunal of a province or territory of Canada other than [enacting province or territory], whether or not it is enforceable as an order of the superior court of unlimited trial jurisdiction in that province or territory, to the extent that it provides for relief other than the payment of money;

[(e) relates to the granting of probate or letters of administration or the administration of the estate of a deceased person;] or

(f) recognizes or enforces a judgment of another province or territory of Canada or of any other jurisdiction.

Comment: Excluded from the definition are types of orders that are the subject of existing machinery for interprovincial enforcement. They include maintenance and support orders (paragraph 1(3)(a)) and orders about decision-making responsibility in relation to minors (paragraph 1(3)(c)). Most Canadian jurisdictions have local legislation respecting the recognition of foreign probates. The exclusion of probate orders (in paragraph 1(3)(e)) therefore is optional and enacting jurisdictions may wish to examine their local legislation and decide whether to maintain the UECJA’s exclusion of them or instead include them within the UECJA.

The exclusion of judgments for fines and penalties (paragraph 1(3)(b)) mirrors the current common law.

The exclusion of orders of tribunals in respect of non-monetary relief (paragraph 1(3)(d)) limits that aspect of the scheme to court orders. Non-money orders made by tribunals are often intensely local in the policies they advance and unsuitable for interprovincial enforcement.

A new exclusion (paragraph 1(3)(f)) has been added. The intention is that the UECJA applies to original judgments rendered on the merits of the case. It is not intended to apply to judgments that recognize or enforce such judgments from other jurisdictions. Otherwise, the decision in one province or territory to enforce a foreign judgment would lead to that foreign judgment being enforceable in all provinces or territories that adopt the UECJA. This limitation is consistent with the developing position at common law limiting recognition and enforcement actions to original, merits-based judgments: see *H.M.B. Holdings Limited v. Antigua and Barbuda*, 2022 ONCA 630.

Restitution orders made in criminal proceedings are not covered (they are not “made in a civil proceeding”) but they have their own separate mechanism for enforcement under *Criminal Code*, RSC 1985, c C-46, s 741(1).

Not all judgments that satisfy the definition of “Canadian judgment” may be registered or enforced under the UECJA. Other limitations are imposed in sections 3 and 6.

Application of Act

2 This Act applies to

- (a) a Canadian judgment made in a proceeding commenced after this Act comes into force; and
- (b) a Canadian judgment made in a proceeding commenced before this Act comes into force and in which the party against whom enforcement is sought took part.

Comment: The application provision permits the retrospective application of the UECJA to some judgments.

It may be unfair to enforce a judgment made in a proceeding commenced before the UECJA came into force. For example, a defendant might have chosen not to appear in litigation in a province or territory on the understanding that, in the absence of an appearance, a resulting judgment would not be enforceable in the enacting province under the law as it stood at the time of that choice. On the other hand, if a defendant took part in the litigation, then there is little reason to deny the plaintiff the right to enforce the judgment under the UECJA.

PART 2

Registration and Enforcement of Canadian Judgments

Right to register Canadian judgment

3(1) Subject to subsection (2), a Canadian judgment, whether or not the judgment is final, may be registered under this Act for the purpose of enforcement.

Comment: The Act covers interim/interlocutory and final orders for non-monetary relief. A condition at common law for the enforcement of a foreign judgment was that the judgment had to be final. This requirement of finality is continued in subsection 3(2) for money judgments. In the context of non-money judgments, other considerations arise.

There is a range of interim/interlocutory orders that might be issued in the course of a proceeding. For example, orders may be made to preserve or protect the subject matter of the litigation or maintain the status quo. The court may issue a freezing order to prevent the defendants from disposing of specified assets. Orders such as these would not meet the test of finality but that is not a sufficient reason to deny their enforcement outside the place where the order was made.

Moreover, in many instances when an interim/interlocutory order is sought, although the pleadings are drafted to claim a final order, the real dispute is about whether an interim/interlocutory order should be granted. When an interim/interlocutory order is granted, in some cases no further steps are taken. The Act recognizes this reality.

(2) A Canadian judgment that requires a person to pay money may not be registered under this Act for the purpose of enforcement unless it is a final judgment.

Comment: As a general notion, the courts will consider that a judgment is final if it is not subject to revision by the court that has rendered it. A judgment will be considered to be final even though the period for an appeal has yet to expire or an appeal has been commenced.

(3) A Canadian judgment that also contains provisions for relief that may not be enforced under this Act may be registered under this Act except in respect of those provisions.

Comment: This ensures that a judgment that provides for various forms of relief is enforceable in respect of the relief falling within the scope of this statute. For example, an order made in a matrimonial proceeding may provide for support, address decision-making responsibility for children of the marriage, and limit the contact one spouse may have with the other. The last form of relief would be enforceable under the UECJA. The other two forms of relief would be enforced under other schemes.

Procedure for registering Canadian judgment

4 A Canadian judgment is registered under this Act by

- (a) paying the fee prescribed by regulation; and
- (b) filing in the registry of the [superior court of unlimited trial jurisdiction in the enacting province or territory]
 - (i) a copy of the judgment, certified as true by a judge, registrar, clerk or other proper officer of the court that made the judgment, and
 - (ii) the additional information or material required by regulation.

Comment: Section 4 sets out the mechanics of registering a judgment under UECJA. If more detailed guidance is desirable this may be done by regulation. Registering a Canadian judgment is a purely administrative act.

Effect of registration

5 Subject to sections 6 and 7, a registered Canadian judgment may be enforced in [enacting province or territory] as if it were an order or judgment of, and entered in, the [superior court of unlimited trial jurisdiction in the enacting province or territory].

Comment: Section 5 describes the effect of registration. It embodies the central policy of the UECJA that Canadian judgments from outside the enacting province or territory should be enforceable as if made by a superior court of the enacting province or territory.

Time limit for enforcement

6(1) A Canadian judgment that requires a person to pay money shall not be enforced under this Act

- (a) after the expiry of any time limit for its enforcement in the province or territory where the judgment was made; or
- (b) after the expiry of any time limit for enforcement in [enacting province or territory] that would apply if the judgment had been made in [enacting province or territory] on the date that the judgment became enforceable in the province or territory where it was made.

Comment: The limitation laws of most provinces and territories adopt different limitation periods for the enforcement of foreign judgments than for the enforcement of local judgments. Judgments from outside the forum are usually subject to a shorter limitation period. Section 6 gives effect to the policy that

Canadian judgments should be treated no less favourably than local judgments of the enacting province or territory. They should not be subject to any shorter limitation period than local judgments.

In setting a limitation period section 6 adopts a dual test. First, the judgment cannot be enforced if for reasons of limitation it can no longer be enforced where it was made. Second, the judgment cannot be enforced if, were it a judgment of the forum, it could no longer be enforced due to a forum limitation period.

It should be noted that a province or territory might not have a limitation period for the enforcement of local judgments. See for example *Limitations Act, 2002*, SO 2002, c 24, Sched B, s 16(1)(b). As a result both branches of subsection 6(1) refer to “any time limit” rather than “the time limit”.

(2) Equitable doctrines and rules of law in relation to delay apply to the enforcement of a Canadian judgment to the extent that the judgment provides for relief other than the payment of money.

Comment: Conduct such as delay in seeking enforcement might disentitle the enforcing party to relief.

Application to court

7(1) A party to a registered Canadian judgment may apply to the [superior court of unlimited trial jurisdiction in the enacting province or territory] to set aside the registration of the judgment or for directions respecting its enforcement.

(2) On an application under subsection (1), the court shall make an order

(a) setting aside the registration of the judgment if

(i) the judgment does not meet the requirements for registration under section 3,

[(ii) the judgment is against an individual resident of [enacting province or territory] who did not take part in the proceedings and the judgment enforces a contract for the supply of consumer goods or services within [enacting province or territory] or a contract of employment under which the individual’s place of employment is in [enacting province or territory]], or

(iii) the judgment is contrary to public policy in [enacting province or territory]; or

(b) staying or limiting the enforcement of the judgment if an order staying or limiting the enforcement of the judgment is in effect in the province or territory where the judgment was made.

(3) On an application under subsection (1), the court may make an order

(a) setting aside the registration of or staying or limiting the enforcement of the judgment, subject to any terms and for any period the court considers appropriate in the circumstances, if

(i) the person against whom enforcement is sought has brought, or intends to bring, in the province or territory where the judgment was made, a proceeding to set aside, vary or obtain other relief in respect of the judgment, or

- (ii) a similar type of order could be made in respect of an order or judgment of the [superior court of unlimited trial jurisdiction in the enacting province or territory] under the rules of court or any Act of [the enacting province or territory] relating to legal remedies and the enforcement of orders and judgments;
- (b) modifying the judgment as may be required to make it enforceable in conformity with local practice; or
- (c) stipulating the procedure to be used in enforcing the judgment.

Comment: In a narrow range of situations a judgment that has been registered should be set aside and in a broader range of situations it may be desirable to “fine-tune” the judgment so that it may be enforced according to its intent. Subsection 7(2) sets out the court’s powers in this respect. The section has been reordered for greater clarity but only two aspects of it are new.

Subparagraph 7(2)(a)(i) is a new provision. It makes clear what was previously implicit. Because the process for registration is an administrative act, it is possible that a party might register a judgment that does not meet the statutory requirements, such as satisfying the definition of a Canadian judgment in section 1. There must accordingly be a basis on which such registrations can be challenged and set aside.

Subparagraph 7(2)(a)(ii) is a new provision and is optional. It provides specific protection from registration of certain judgments to local consumers and employees. It is similar to *Canadian Judgments Act*, SNB 2011, c 123, s 6(2). There are also some lesser similarities in the *Civil Code of Quebec*, CQLR c CCQ-1991, Art 3168. Subparagraph 7(2)(a)(ii) is based on the policy that local consumers and employees, as vulnerable parties, should not have to appear, even to raise objections to jurisdiction, in another Canadian province or territory in order to defend themselves. The contrary position, previously adopted by the ULCC, is that this is too great a derogation from the overall scheme of the UECJA. In addition, it is not a defence at common law. Provinces and territories that have adopted the UECJA have done so without such a provision and this does not appear to have been problematic. But it is possible that it could become a concern in the future, so that a provision of this nature might be considered desirable. A province or territory adopting this provision should consider the extent to which it might be necessary or desirable to define “consumer goods or services” and “employment”. It should also consider whether to statutorily alter the common law test for enforcement to provide similar protection, since as provided in section 10 the UECJA operates alongside the common law. Without such a change, a judgment creditor could avoid the protection in subparagraph 7(2)(a)(ii) by using the common law process for enforcement against local consumers and employees.

A residual common law basis for refusing enforcement is maintained in subparagraph 7(2)(a)(iii). As noted in *Beals v Saldanha*, [2003] 3 SCR 416 at para 72, public policy would prohibit registration of a judgment “that is founded on a law contrary to the fundamental morality” of the legal system where registration is sought. The defence is narrow, especially as between the constituent parts of a federation. The existence of a difference between the policy choices reflected in the law applied by the rendering court and those that prevail in the province or territory of registration is not enough.

An order made under subparagraph 7(3)(a)(i) may be made for a temporary period and subject to any terms which may be necessary to protect the enforcing party’s position. Terms might be imposed to ensure that the party against whom enforcement is sought proceeds expeditiously. The court may, for example, set time limits or require the posting of security.

Treating Canadian judgments as equivalent to local judgments requires that the party against whom enforcement is sought is entitled to take advantage of any limitations which the law of the enacting province or territory may impose with respect to the enforcement of local judgments. This might include,

for example, a power in the local court to order payment by installments. Subparagraph 7(3)(a)(ii) clarifies the power of the local court to make orders of this character.

Non-money judgments are frequently framed with reference to the enforcement machinery available in the place where they are made. This may not always be compatible with the enforcement machinery and practice in the jurisdiction where enforcement is sought. Enforcement of the judgment from another province or territory, according to its exact tenor, may be impossible. Paragraphs 7(3)(b) and (c) give the enforcing court the power to make the necessary modifications for local enforcement.

(4) Notwithstanding subsections (2) and (3), the [superior court of unlimited trial jurisdiction in the enacting province or territory] shall not make an order setting aside the registration of or staying or limiting the enforcement of a registered Canadian judgment solely on the grounds that

(a) the court that made the judgment lacked jurisdiction over the subject matter of the proceeding that led to the judgment, or over the party against whom enforcement is sought, under

(i) the private international law of [enacting province or territory], or

(ii) the domestic law of the province or territory where the judgment was made;

(b) the [superior court of unlimited trial jurisdiction in the enacting province or territory] would have come to a different decision on a finding of fact or law or on an exercise of discretion than the court that made the judgment; or

(c) a defect existed in the process or proceeding leading to the judgment.

Comment: This provision gives specific effect to policy underlying the UECJA. At common law, a court asked to enforce a foreign judgment can consider whether, in its view, the rendering court properly took jurisdiction over the dispute. It can also consider whether the judgment was obtained by fraud or a violation of natural justice. These considerations can lead the court to refuse enforcement. Allowing the enforcing court to consider such matters may be appropriate where the judgment emanates from outside Canada. However, it is inappropriate within Canada as it puts the courts of one province or territory in the position of reviewing the actions of the courts of another province or territory.

The UECJA expressly abrogates these elements of the common law approach. Subsection 7(4) stipulates that none of the concerns described above provide grounds for staying or limiting the enforcement of a Canadian judgment. The proper course for a judgment debtor who alleges that the judgment is flawed is to seek relief in the place where the judgment was made, either through an appeal or a further application to the court or tribunal that made the judgment.

(5) An application for directions must be made under subsection (1) before any measures are taken to enforce a registered Canadian judgment if

(a) the enforceability of the judgment is, by its terms, subject to the satisfaction of a condition; or

(b) the judgment was obtained without notice to the persons bound by it.

Comment: Subsection 7(5) sets out particular instances in which directions must be sought. The first is where a judgment stipulates that some condition precedent must be satisfied before the judgment is enforceable. Typically, a judgment might require that a person bound by it receive notice of it before any enforcement proceedings may be taken. Subsection 7(5) requires that the enforcing party seek directions as to whether the condition has been satisfied for the purposes of enforcement within the enforcing province or territory. The second instance is where the judgment sought to be enforced is an ex parte order.

Interest on registered judgment

8(1) To the extent that a registered Canadian judgment requires a person to pay money, interest is payable on the judgment in accordance with the terms of the judgment.

(2) If the terms of a registered Canadian judgment do not address the issue of interest, interest is payable on the judgment in accordance with the law applicable to the calculation of interest on the judgment in the province or territory where the judgment was made.

Comment: Section 8 addresses the rate of interest to be used for post-judgment interest, including the time after registration. If the judgment specifies a post-judgment interest rate, then that rate is used. If it does not, the rate from the rendering jurisdiction that would apply is used.

Recovery of registration costs

9 An enforcing party is entitled to recover all costs, charges and disbursements reasonably incurred in the registration of a Canadian judgment under this Act.

Comment: Costs and disbursements incurred in the registration of a Canadian judgment are recoverable.

Enforcing party's other rights not affected by registration

10 Nothing in this Act deprives an enforcing party of the right to do the following instead of proceeding under this Act:

- (a) bring an action on the original cause of action; or
- (b) bring an action to recognize or enforce a Canadian judgment.

Comment: An enforcing party can elect between options for enforcing a Canadian judgment. Section 10 preserves the right of the enforcing party to employ the UECJA or to rely on common law methods of enforcement.

However, a province or territory should not have multiple statutory registration schemes that cover Canadian judgments. A province or territory that adopts the UECJA should amend any other schemes (such as UREJA) so that they exclude Canadian judgments.

PART 3

Canadian Civil Protection Orders and Foreign Civil Protection Orders

Comment: Part 3 of the UECJA provides a mechanism for giving immediate effect to civil protection orders. If a province or territory did not want to provide such a mechanism, it could omit Part 3 when enacting the statute. The definition in Part 1 of a Canadian civil protection order should still be retained so as to operate as a limitation on the exclusion in paragraph 1(3)(c) of the definition of a Canadian judgment.

Definitions for Part

11 In this Part,

“foreign civil protection order” means a foreign judgment or a portion of a foreign judgment made by a court of a foreign state that prohibits a person from

- (a) being in physical proximity to a specified person or following a specified person from place to place;
- (b) contacting or communicating with a specified person, directly or indirectly;
- (c) attending at or within a certain distance of a specified place or location; or
- (d) engaging in molesting, annoying, harassing or threatening conduct directed at a specified person; (« *ordonnance civile de protection rendue à l'étranger* »)

Comment: The definition of a foreign civil protection order is in substance very similar to a Canadian civil protection order as defined in subsection 1(1). It is however restricted to foreign court judgments. This approach imports the definition of foreign judgment (as defined below) with the significant limitation that the judgment must be from a court rather than an administrative tribunal or other administrative decision maker.

A foreign civil protection order is limited to an order that contains an applicable prohibition against a specified individual. This reflects the purpose of the provision which is to protect one individual from possible harm or harassment from another individual. It is not available to limit the conduct of a class of persons such as a political or social group or with respect to a corporate entity or a government body.

While the definition is relatively open regarding restrictions on attending at or near a particular location, typically these orders will be restricted to generic locations such as the residence, school or workplace of the specified person. Accordingly, enforcement can routinely proceed by local policing agencies without a requirement to finally determine vested property rights of any person. Enforcement can instead focus on immediate risk reduction between the parties to the order.

“foreign judgment” means a foreign judgment as defined in the *Enforcement of Foreign Judgments Act*, except for a judgment made in a foreign state prescribed in the regulations, and includes a decision that would, if the decision were a final decision, be a foreign judgment pursuant to that Act. (« *jugement étranger* »)

Comment: This definition presumes that the Uniform Enforcement of Foreign Judgments Act is in force in the enacting jurisdiction. If it is not, the enacting jurisdiction could instead set out the definition of “foreign judgment” from that statute, subject to the modifications above.

Expressly including decisions that are not final as foreign judgments for the purposes of this statute obviates any need to assess whether the order is final or interim/interlocutory in nature. This is consistent with the approach taken in subsection 3(1).

An exception is also made for those foreign states that are specifically named in the regulations as foreign states whose judgments will not be recognized and enforced under this Part. This reflects the policy decision to extend enforcement to civil protection orders from foreign states except where a specific decision has been made to exclude a particular state from this regime.

Application of Part

12 This Part applies to a Canadian civil protection order or a foreign civil protection order

- (a) that is in force at the time this Part comes into force; or
- (b) that is issued after this Part comes into force.

Comment: Given the intention of this Part to provide protection for individuals that a court of another jurisdiction has identified as requiring protection, there is no reason to restrict the application of this Part to future orders.

Deeming of order

13 A Canadian civil protection order or a foreign civil protection order is deemed to be an order of the [superior court of unlimited trial jurisdiction in the province or territory where the order is sought to be enforced] and is enforceable in the same manner as an order of that court for all purposes.

Comment: This deeming provision is the key substantive provision in the approach to the recognition and enforcement of civil protection orders.

Since there is no requirement, under this mechanism for giving immediate effect to civil protection orders, for them to be subsequently registered (which would then allow a challenge to the registration), an enacting jurisdiction may wish to consider whether to address the local mechanism by which a person might object to its continued immediate enforcement.

Enforcement by law enforcement agencies

14(1) A Canadian civil protection order is enforceable by a law enforcement agency in the same manner as an order of the [superior court of unlimited trial jurisdiction in the province or territory where the order is sought to be enforced], whether or not the order is a registered Canadian judgment.

(2) A foreign civil protection order is enforceable by a law enforcement agency in the same manner as an order of the [superior court of unlimited trial jurisdiction in the province or territory where the order is sought to be enforced].

Comment: Both a Canadian civil protection order and a foreign civil protection order may be enforced by local law enforcement agencies in the same manner as they would enforce an order of the local superior court of unlimited trial jurisdiction. This further facilitates the immediate enforcement of the order at the scene of an incident without the inherent risk to the potential victim that delay, for example in order to seek legal advice about enforceability, would entail.

The order is enforceable as a local order. While the party seeking enforcement will bear a practical burden of communicating the content of the order to the police officer, there are no formal prerequisites to enforcement such as authentication or translation.

Registration permitted

15 A Canadian civil protection order may be registered and enforced pursuant to Part 2.

Comment: This provision retains the ordinary procedure for the enforcement of a Canadian civil protection order in the same manner as any other Canadian judgment under the UECJA. It continues to apply exclusively to Canadian civil protection orders. Similarly, a foreign civil protection order may continue to be enforced in the same manner as any other foreign judgment under the Uniform Enforcement of Foreign Judgments Act.

Immunity

16 No action or proceeding lies or shall be commenced against a law enforcement agency, including an employee or agent of a law enforcement agency, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the enforcement or supposed enforcement of a Canadian civil protection order or a foreign civil protection order or a purported Canadian civil protection order or a purported foreign civil protection order pursuant to this Part or the regulations made pursuant to this Act.

Comment: This liability protection is intended to address in part the reluctance that a local law enforcement agency may have with respect to immediately enforcing a civil protection order and in particular enforcing such an order in a form with which it is unfamiliar because the order is from a foreign state. If it is well understood within the policing agency that there is no legal liability risk for good faith

actions taken to protect a potentially endangered individual, then professional police agencies can proceed to take immediate steps to provide that protection. Education will be a key component of the implementation of this provision, but it remains important to establish a strong legal foundation from which police agencies can proceed.

PART 4

General

Regulations

17 The [Lieutenant Governor in Council or the equivalent regulation-making authority in the jurisdiction] may make [regulations or rules of court]

- (a) prescribing the fee payable for the registration of a Canadian judgment under this Act;
- (b) respecting additional information or material that is to be filed in relation to the registration of a Canadian judgment under this Act;
- (c) prescribing foreign states for the purposes of section 11;
- (d) respecting forms and their use under this Act; and
- (e) to do any matter or thing required to effect or assist the operation of this Act.

Comment: The regulation-making power in section 17 is self-explanatory.

Paragraph (c) provides regulation making authority to prescribe those foreign states whose civil protection orders the enacting jurisdiction will refuse to enforce under Part 3. No criteria for exercising this authority are set out in the UECJA as it is recognized to be a largely political issue driven by current events in a particular jurisdiction.

Given the limited *in personam* subject matter of these orders, it is presumed that this power will be used sparingly. A foreign civil protection order most often merely requires one individual to stay away from another individual to avoid the risk of physical harm to one or the other. Its scope is therefore modest.