

Court Jurisdiction and Enforcement of Judgments

The Canadian Domestic Situation
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Uniform Enforcement of Canadian Judgments and Decrees Act (original version adopted in 1992)

- The Uniform Enforcement of Canadian Judgments and Decrees Act ("UECJDA") embodies the notion of "full faith and credit" in the enforcement of judgments between the provinces and territories of Canada. It involves rejection of two themes which have, in the past, characterized the machinery for enforcing such judgments.
- First it rejects the concept of reciprocity. 'Where the UECJDA has been adopted in province "X", a litigant who has taken judgment in province "Y" may enforce that judgment in province "X" under the legislation whether or not the UECJDA has been adopted in province "Y." This stands in contrast to the approach of the Uniform Reciprocal Enforcement of Judgments Act ("UREJA").
- Second, the Act rejects a supervisory role for the courts of a province or territory where the enforcement of an out-of-province judgment ["Canadian judgment"] is sought. The common law and the UREJA are preoccupied with the question of whether the court which gave the judgment had the jurisdiction to do so. If a Canadian judgment is flawed, because of some defect in the jurisdiction or process of the body which gave it, the approach of the UECJDA is to regard correction of the flaw as a matter to be dealt with in the place where it was made.
- As a general rule, a creditor seeking to enforce a Canadian judgment in a province or territory which has enacted the UECJDA should face no substantive or procedural barriers except those which govern the enforcement of judgments of the local courts.
- An important feature of UECJDA is that it provides a mechanism for the enforcement of non-money judgments. Apart from legislation that addresses particular types of orders, there is no statutory scheme or common law principle which permits the enforcement in one province of a non-money judgment made in a different province. This is in sharp contrast to the situation that prevails with respect to money judgments which have a long history of enforceability between provinces and states both under statute and at common law. With the increasing mobility of the population and the emergence of policies favouring the free flow of goods and services throughout Canada, this gap in the law has become highly inconvenient. UECJDA provides a rational statutory basis for the enforcement of non-money judgments between the Canadian provinces and territories.

Uniform Court Jurisdiction and Proceedings Transfer Act (original version adopted in 1994)

- This Uniform Act has four main purposes:
 - to replace the widely different jurisdictional rules currently used in Canadian courts with a uniform set of standards for determining jurisdiction;
 - to bring Canadian jurisdictional rules into line with the principles laid down by the Supreme Court of Canada in *Morguard Investments Ltd. v. De Savoye*, [1990] 3 S.C.R. 1077, and *Amchem Products Inc. v. British Columbia (Workers' Compensation Board)*, [1993] 1 S.C.R. 897;
 - by providing uniform jurisdictional standards, to provide an essential complement to the rule of nation-wide enforceability of judgments in the Uniform Enforcement of Canadian Judgments Act; and
 - to provide, for the first time, a mechanism by which the superior courts of Canada can transfer litigation to a more appropriate forum in or outside Canada, if the receiving court accepts such a transfer.

Jurisdictional Scan

Enforcement of Judgments

- BC 1992
- PE 1994
- SK 1997
- NL 1999
- NB 2000
- YT 2000
- NS 2001
- MB 2005

Court Jurisdiction

- SK 1997
- BC 2003
- NS 2003

Some Developments

- The evolution of the common law
- 2016 Osgoode Hall Law School Symposium on the Uniform Court Jurisdiction and Proceedings Transfer Act
- International Conventions

The Future

- Will jurisdictions that have not adopted these uniform acts adopt them as they are?
- Is it time for the ULCC to update these uniform acts?