

1. (1) Where, before making an order for the payment of money arising out of a claim or loss, the court considers that the person in whose favour the order will be made will be most truly and exactly compensated if all or part of the money payable under the order is measured in a currency other than the currency of Canada, the court shall order that the money payable under the order will be that amount of Canadian currency that is necessary to purchase the equivalent amount of the other currency at a chartered bank located in [enacting jurisdiction] at the close of business on the conversion date.
- Payment in
foreign money
equivalent*
- (2) The conversion date is the last day, before the day on which a payment under the order is made by the judgement debtor to the judgement creditor, that the bank referred to in subsection (1) quotes a Canadian Dollar equivalent to the other currency.

Section 1:

Section 1 embodies the policy that where a claim is properly measured in a foreign currency, the conversion to Canadian dollars shall take place at the rates prevailing at the time of payment. It applies to actions which may result in a judgment for money including those for debt or damages based on tort or breach of contract. The opening words of subsection (1) state when the conversion rule applies, and its drafting echoes the English jurisprudence (see *The Despina R* and *The Folias* [1979] A.C. 685). The balance of subsection (1), and subsection (2), stipulate the form of the order which will achieve payment date conversion. An order framed in conformity with section 1 should not conflict with section 12 of the *Currency Act*, Canada, R.S.C. 1985, c. 52.

2. (1) Interest payable under [applicable court order interest legislation] shall be paid at a rate determined
- Interest*
- (a) under the regulations made under section 3(a), or
- (b) in the manner provided for in subsection (2).

(2) Where

- (a) due to a change in circumstances, the court considers it is not possible to determine a rate of interest under the regulations,
- (b) the court considers it would be unjust to any of the parties that the rate so determined be utilized, or
- (c) no regulation has been made under section 3 (a) with respect to the other currency,

the court may fix a rate that is payable, having regard to rates that are being paid on the other currency in a country where that currency circulates as legal tender.

Regulations

- 3. The Lieutenant Governor in Council may make regulations that are considered necessary or advisable respecting
 - (a) the manner of determining interest rates that are payable on particular currencies, for purposes of section 2 (1), and
 - (b) fixing conversion dates in respect of all processes to obtain money under [applicable court order enforcement legislation] to satisfy an order for the payment of money that is made under section 1.

Sections 2 and 3 (a):

Sections 2 and 3 (a) deal with interest payable on an order made under section 1. The basic principle is that the interest rate, both before and after judgment, should be fixed having regard to the interest rates which prevail with respect to the foreign currency. The interest rates payable on Canadian currency are irrelevant. The Act provides two methods by which a "foreign" interest rate may be determined.

First, section 3 (a) contemplates that regulations may be made respecting the determination of interest rates payable on particular currencies. Thus, for example, the enacting jurisdiction might, by regulation, provide that the applicable interest rate is the one-year treasury obligation rate existing in the country which issued the currency. Where such a regulation has been made it will normally prevail (section 2 (1) (a)) unless the facts bring the case into one of the two exceptions described in section 2 (2) (a) or (b).

Exception (a) might be invoked where the regulation is obsolete and refers to an interest rate no longer in use. Exception (b) might be applied where some distortion has occurred and the interest rate determined under the regulation is artificially high or low in relation to the “market” rates which prevail for the foreign currency. When either of those two exceptions apply, or where no regulation has been made, the court will fix an interest rate based on evidence presented as to rates which prevail with respect to the foreign currency.

Since judgment interest legislation varies somewhat between provinces, each enacting jurisdiction should carefully examine both section 2 and its own court order interest legislation, making whatever changes that are necessary to ensure that they work harmoniously and, so far as possible, give effect to the policy which underlies section 2.

Section 3 (b):

Under section 3 (b) regulations may also be made to provide an appropriate interface between judgments made under the Act and the usual remedies available to a judgment creditor.

The following information was obtained from the records of the Bureau of Land Management, Department of the Interior, regarding the land in question. The land is situated in the State of California, and is owned by the United States of America. The land is being offered for sale to the highest bidder. The land is situated in the County of Los Angeles, State of California. The land is situated in the City of Los Angeles, State of California. The land is situated in the City of Los Angeles, State of California.

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