

CHAPTER 113
FOREIGN JUDGEMENTS (RECIPROCAL ENFORCEMENT) ACT

• Act • Subsidiary Legislation •

ACT

Amended by

Act No. 17 of 1963

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CHAPTER 113
FOREIGN JUDGEMENTS (RECIPROCAL ENFORCEMENT) ACT

An Act to make provision for the enforcement in Grenada of judgements given in foreign countries which accord reciprocal treatment to judgements given in Grenada, for facilitating the enforcement in foreign countries of judgements given in Grenada, and for connected purposes.

[Amended by Act No. 17 of 1963.]

[20th September, 1958.]

1. Short title

This Act may be cited as the Foreign Judgements (Reciprocal Enforcement) Act.

2. Interpretation

(1) In this Act—

“appeal” includes any proceedings by way of discharging or setting aside a judgement or an application for a new trial or a stay of execution;

“country of the original court” means the country in which the original court is situated;

“judgement” means a judgement or order given or made by a court in civil proceedings, or a judgement or order given or made by a court in criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party;

“judgement creditor” means the person in whose favour the judgement was given, and includes a person in whom the rights under the judgement have become vested by succession or assignment or otherwise;

“judgement debtor” means the person against whom the judgement was given, and includes a person against whom the judgement is enforceable under the law of the original court;

“judgements given in the High Court” includes judgements given in the High Court and judgements given in any court on appeal against judgements so given in the High Court;

“original court”, in relation to a judgement, means the court by which the judgement was given;

“prescribed” means prescribed by rules of court;

“registering court”, in relation to a judgement, means the court to which an application to register the judgement is made;

“registration” means registration under Part I of this Act, and the expressions “register” and “registered” shall be construed accordingly.

(2) For the purposes of this Act, the expression “action *in personam*” shall not be deemed to include any matrimonial cause or any proceedings in connection with any of the following matters, that is to say, matrimonial matters, administration of the estates of deceased persons, bankruptcy, winding-up of companies, lunacy or guardianship of infants.

PART I

Registration of Foreign Judgements

3. Power to extend Part I of this Act to foreign judgements

(1) The Governor-General if he or she is satisfied that, in the event of the benefits conferred by this Part of this Act being extended to judgements given in the superior courts of any foreign country, substantial reciprocity of treatment will be assured as respect the enforcement in that foreign country of judgements given in the High Court, may by Order 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 judgement of a superior court of a foreign country to which this Part of this Act extends, other than a judgement of such a court given on appeal from a court which is not a superior court, shall be a judgement 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 directing that this Part shall extend to that foreign country.

(3) For the purposes of this section, a judgement 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.

(4) The Governor-General may by a subsequent Order vary or revoke any Order previously made under this section.

4. Application for, and effect of, registration of foreign judgement

(1) A person, being a judgement creditor under a judgement to which this Part applies, may apply to the High Court at any time within six years after the date of the judgement, or, where there have been proceedings by way of appeal against the judgement, after the date of the last judgement given in those proceedings, to have the judgement registered in the Supreme Court Registry, 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 judgement to be registered:

Provided that a judgement 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 judgement shall, for the purposes of execution, be of the same force and effect; and
- (b) proceedings may be taken on a registered judgement; and
- (c) the sum for which a judgement is registered shall carry interest; and
- (d) the registering court shall have the same control over the execution of a registered judgement,

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

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

(3) Where the sum payable under a judgement which is to be registered is expressed in a currency other than the currency of Grenada, the judgement shall be registered as if it were a judgement for such sum in the currency of Grenada as, on the basis of the rate of exchange prevailing at the date of the judgement of the original court, is equivalent to the sum so payable.

(4) If at the date of the application for registration the judgement of the original court has been partly satisfied, the judgement shall not be registered in respect of the whole sum payable under the judgement 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 judgement, it appears to the registering court that the judgement is in respect of different matters and that some, but not all, of the provisions of the judgement are such that if those provisions had been contained in separate judgements those judgements could properly have been registered,

the judgement 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 judgement of the original court, including any interest which by the law of the country of the original court becomes due under the judgement up to the time of registration, the judgement shall be registered for the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgement from the original court.

5. Rules of court

The power to make rules of court under section 17 of the West Indies Associated States Supreme Court Order, 1967, made under Statutory Instrument No. 223 of 1967, shall 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 judgements;
- (b) for prescribing the matters to be proved on an application for the registration of a judgement and for regulating the mode of proving those matters;
- (c) for providing for the service on the judgement debtor of notice of the registration of a judgement;
- (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 judgement 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 judgement can be enforced by execution in the country of the original court, or what interest is payable under a foreign judgement under the law of the original court, is to be determined;
- (f) for prescribing any matter which under this Part is to be prescribed.

6. Cases in which registered judgements must, or may, be set aside

(1) On an application in that behalf duly made by any party against whom a registered judgement may be enforced, the registration of the judgement—

- (a) shall be set aside if the registering court is satisfied—
 - (i) that the judgement is not a judgement to which this Part 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 judgement debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on him or her in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable him or her to defend the proceedings and did not appear, or
 - (iv) that the judgement was obtained by fraud, or
 - (v) that the enforcement of the judgement would be contrary to public policy in the country of the registering court, or
 - (vi) that the rights under the judgement are not vested in the person by whom the application for registration was made;
- (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

judgement in the original court been the subject of a final and conclusive judgement 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), be deemed to have had jurisdiction—

- (a) in the case of a judgement given in an action *in personam*—
 - (i) if the judgement 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 of or contesting the jurisdiction of that court, or
 - (ii) if the judgement debtor was plaintiff in, or counterclaimed in, the proceedings in the original court, or
 - (iii) if the judgement 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 to the courts of the country of that court, or
 - (iv) if the judgement 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 judgement 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 judgement given in an action of which the subject matter was immovable property or in an action *in rem* of which the subject matter was movable 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 judgement given in an action other than any such action as is mentioned in paragraph (a) or (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), 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 paragraph (a)(i), (ii) and (iii) and in subsection (2)(c), 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 judgement 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.

7. Power of registering court on application to set aside registration

(1) If, on an application to set aside the registration of a judgement, the applicant satisfies the registering court either that an appeal is pending, or that he or she is entitled and intends to appeal, against the judgement, 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 judgement is set aside under the last foregoing subsection, or solely for the reason that the judgement 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 judgement when the appeal has been disposed of or if and when the judgement becomes enforceable by execution in that country, as the case may be.

(3) Where the registration of a judgement is set aside solely for the reason that the judgement, 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 judgement creditor, order judgement to be registered for the balance remaining payable at that date.

8. Foreign judgements which can be registered not to be enforceable otherwise

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

9. Power to apply Part I to other parts of the Commonwealth

(1) The Governor-General may, by Order, direct that this Part shall apply to any part of the Commonwealth other than Grenada and to judgements obtained in the superior courts of such part of the Commonwealth as it applies to foreign countries and judgements obtained in the superior courts of foreign countries† and, in the event of the Governor-General so directing, this Act shall have effect accordingly and section 6 of the British Judgements (Enforcement) Act* shall cease to have effect except in relation to those parts of the Commonwealth to which it extends at the date of the Order.

(2) If, at any time after the Governor-General has so directed, an Order is made under section 3 of this Act extending Part I to any part of the Commonwealth to which the British Judgements (Enforcement) Act* extends as aforesaid then, in relation to that part of the Commonwealth—

- (a) the last-mentioned Act shall cease to have effect;
- (b) Part I of this Act shall have effect as if—
 - (i) the word “judgement” included an award in proceedings on an arbitration if the award has, in pursuance of the law in force in the place where it was made, become enforceable, in the same manner as a judgement given by a court in that place,
 - (ii) the fact that a judgement was given before the coming into operation of the Order did not prevent it from being a judgement to which Part I of

† See, for example, the Foreign Judgements (Reciprocal Enforcement) (Commonwealth) Order, 1992 (SRO 6 of 1992) applying Part I with effect from 28th February, 1992, to most of the Commonwealth countries.

* Chapter 39 of the 1958 Revision, repealed with effect from 31st December, 1992, by Act No. 13 of 1991.

(Note.—Neither of above footnotes forms part of the Act or of this Chapter; each is included for convenience only.)

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this Act applies, but the time limited for the registration of the judgement so given were twelve months from the date of the judgement or such longer period as may be allowed by the High Court,

- (iii) any judgement registered in the High Court under the provisions of the British Judgements (Enforcement) Act* before the coming into force of the Order had been registered under the provisions of this Act and anything done in relation thereto under the provisions of the British Judgements (Enforcement) Act* or any rules of court or other provisions applicable thereto had been done under the provisions of this Act or corresponding rules of court or other provisions applicable thereto.

(3) Reference in this section to “any part of the Commonwealth other than Grenada” is to be construed as including territories under Her Majesty’s protection and territories administered by the Government of any part of the Commonwealth under the trusteeship of the United Nations.

PART II

Miscellaneous and General

10. General effect of certain foreign judgements

(1) Subject to the provisions of this section, a judgement to which Part I applies or would have applied if a sum of money had been payable thereunder, whether it can be registered or not, and whether, if it can be registered, it is registered or not, shall be recognised in any court as conclusive between the parties thereto in all proceedings founded on the same cause of action and may be relied on by way of defence or counterclaim in any such proceedings.

(2) This section shall not apply in the case of a judgement—

- (a) where the judgement has been registered and the registration thereof has been set aside on some ground other than—
 - (i) that a sum of money was not payable under the judgement, or
 - (ii) that the judgement had been wholly or partly satisfied, or
 - (iii) that at the date of the application the judgement could not be enforced by execution in the country of the original court; or
- (b) where the judgement has not been registered, it is shown (whether it could have been registered or not) that if it had been registered the registration thereof would have been set aside on an application for that purpose on some ground other than one of the grounds specified in paragraph (a) of this subsection.

(3) Nothing in this section shall be taken to prevent any court recognising a judgement as conclusive of any matter of law or fact decided therein if that judgement would have been so recognised before the passing of this Act.

11. Power to make foreign judgements unenforceable in Grenada if no reciprocity

(1) If it appears to the Governor-General that the treatment in respect of recognition and enforcement accorded by the courts of any foreign country to judgements given in the High Court is substantially less favourable than that accorded by the High Court to judgements of the superior courts of that country, the Governor-General may by Order apply this section to that country.

(2) Except in so far as the Governor-General may by Order under this section otherwise direct, no proceedings shall be entertained in any court for the recovery of any sum alleged to be payable under a judgement given in a court of a country to which this section applies.

(3) The Governor-General may by a subsequent Order vary or revoke any Order previously made under this section.

12. Issue of certificates of judgements obtained in Grenada

Where a judgement under which a sum of money is payable, 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, has been entered in the High Court against any person and the judgement creditor is desirous of enforcing the judgement in a foreign country to which Part I applies, the court shall, on an application made by the judgement creditor and on payment of such fee as may be fixed for the purposes of this section by rules of court, issue to the judgement creditor a certified copy of the judgement, together with a certificate containing such particulars with respect to the action, including the causes of action, and the rate of interest, if any, payable on the sum payable under the judgement, as may be prescribed:

Provided that, where execution of a judgement is stayed for any period pending an appeal or for any other reason, an application shall not be made under this section with respect to the judgement until the expiration of that period.

CHAPTER 113 FOREIGN JUDGEMENTS (RECIPROCAL ENFORCEMENT) ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Foreign Judgements (Reciprocal Enforcement) (Australia) Order (*Repealed*)
 2. Foreign Judgements (Reciprocal Enforcement) (Commonwealth) Order
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Foreign Judgements (Reciprocal Enforcement) (Australia) Order

SRO 22 of 1986

[Repealed by SRO 6 of 1992.]

Foreign Judgements (Reciprocal Enforcement) (Commonwealth) Order

SRO 6 of 1992

ARRANGEMENT OF ORDERS

1. Citation.
2. Part I of Chapter No. 113 to apply.

3. Repeal of SRO 22 of 1986.
Schedule Countries

**FOREIGN JUDGEMENTS (RECIPROCAL ENFORCEMENT)
(COMMONWEALTH) ORDER**

**Order made by the Governor-General under the authority of section 9(1) of the
Foreign Judgements (Reciprocal Enforcement) Act, Chapter No. 113.**

[SRO 6 of 1992.]

[28th February, 1992.]

1. Citation

This Order may be cited as the Foreign Judgements (Reciprocal Enforcement) (Commonwealth) Order.

2. Part I of Chapter No. 113 to apply

Subject to the provisions of the Foreign Judgements (Reciprocal Enforcement) Act, Chapter No. 113, Part I of that Act shall apply to the countries listed in the Schedule hereto and to judgements obtained in the superior courts of record thereof as it applies to foreign countries and judgements obtained in the courts of foreign countries.

3. Repeal of SRO 22 of 1986

The Foreign Judgements (Reciprocal Enforcement) (Australia) Order, 1986, is hereby repealed.

Schedule

FOREIGN JUDGEMENTS (RECIPROCAL ENFORCEMENT) ACT

FOREIGN JUDGEMENTS (RECIPROCAL ENFORCEMENT) (COMMONWEALTH)
ORDER

Countries

[Section 2.]

Antigua and Barbuda	Kiribati	Sierra Leone
Australia	Lesotho	Singapore
Bahamas (The)	Malawi	Solomon Islands
Bangladesh	Malaysia	Sri Lanka
Barbados	Maldives (The)	Swaziland
Belize	Malta	Tanzania
Botswana	Mauritius	Tonga
Brunei-Darrusalam	Namibia	Trinidad and Tobago
Canada	Nauru	Tuvalu
Cyprus	New Zealand	Uganda
Dominica	Nigeria	United Kingdom
Gambia (The)	Pakistan	Vanatu
Ghana	Papua New Guinea	Western Samoa
Guyana	Saint Kitts and Nevis	Zambia

India

Jamaica

Kenya

Saint Lucia

Saint Vincent and The Grenadines

Seychelles (The)

Zimbabwe

