

APPENDIX II

**An Act to Facilitate The Reciprocal
Enforcement of Judgments (Canadian Act)***

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

1. This Act may be cited as "The Reciprocal Enforcement of Judgments Act".

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 dependent of the person against whom the order was made;
- (b) "judgment creditor" means the person by whom the judgment was obtained, and includes his executors, administrators, successors, and assigns;
- (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;
- (d) "original court" in relation to a judgment means the court by which the judgment was given;
- (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 service 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 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 *ex*

* [1958] Proceedings of the Uniform Law Conference of Canada 90, as amended, [1962] Proceedings, at 108, as amended, [1967] Proceedings, at 22.

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.

(4) The certificate shall be in the form set out in the Schedule, 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.

(6) No order for registration shall be made if the court to which application for registration is made is satisfied that,

- (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 ordinary 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.

(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.

(8) If a judgment contains provisions by which a sum of money is made payable and also contains provisions with respect to other matters, such judgment may be registered under this Act in respect of those provisions thereof by which a sum of money is made payable, but may not be so registered in respect of any other provisions therein contained.

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.

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.

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,

- (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* 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.

9.—(1) At the time of, of 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.

(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 order shall apply thereto.

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.)

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.

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.

(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.

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.