



**BERMUDA
1958 : 103**

JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1958

ARRANGEMENT OF SECTIONS

1	Interpretation	6	Exclusion of other proceedings in Bermuda
2	Judgments to which Act applies	7	General effect of certain judgments
3	Application by judgment creditor to register judgment in Supreme Court	8	Issue of certificates of judgments
4	Setting aside registration	9	Extension to other countries
5	Powers of Supreme Court where appeal pending or judgment not enforceable by execution	10	Rules; jurisdiction of judge
		11	[<i>omitted</i>]

[15 December 1958]

[*preamble and words of enactment omitted*]

Interpretation

1 (1) In this Act unless the context otherwise requires—

"appeal" includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;

"judgment" means a judgment or order given or made by a court in any civil proceedings, or a judgment or order given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party; and it also includes an award in proceedings

JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1958

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 judgment given by a court in that place;

"judgment creditor" means the person who has obtained the judgment, and includes his successors and assigns;

"judgment debtor" means the person against whom judgment has been given, and includes every person against whom the judgment is enforceable in the place where it was given;

"registration" and its cognate expressions means registration of a judgment under this Act;

"the superior courts of the United Kingdom" means the High Court in England, the Court of Sessions in Scotland, the High Court in Northern Ireland, the Court of Chancery of the County Palatine of Lancaster or the Court of Chancery of the County Palatine of Durham, and includes judgments given in any courts on appeals against any judgments so given.

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

Judgments to which Act applies

2 (1) Any judgment given in the superior courts of the United Kingdom, other than a judgment of such a court given on appeal from a court which is not a superior court, shall be a judgment to which 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.

(3) For the purposes of this section, a judgment 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 United Kingdom.

Application by judgment creditor to register judgment in Supreme Court

3 (1) A person, being a judgment creditor under a judgment to which this Act applies, being a judgment given after 14 December 1958, may apply to the Supreme Court at any time within six years after the date of such judgment, or, where there have been proceedings by way of

appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in the Supreme Court, and on any such application the Supreme Court shall, subject to the proof of the matters required by Rules of Court and to the other provisions of this Act order the judgment to be registered:

Provided that a judgment 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 United Kingdom.

(2) In the case of a judgment to which this Act applies given before the 15 December 1958, subsection (1) shall apply save that the time limited for registration shall be twelve months from the date of the judgment or such longer period as may be allowed by the Supreme Court.

(3) Subject to the provisions of this Act with respect to the setting aside of registration,

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

as if the judgment had been a judgment originally given in the Supreme Court and entered therein on the date of registration:

Provided that execution shall not issue on such judgment so long as, under this Act and rules made under section 10, it is competent for any party to make an application to have registration set aside, or, where such application is made, until after such application has been finally determined.

(4) Where the sum payable under a judgment to which this Act applies is expressed in a currency not legal tender in Bermuda, such judgment shall be registered as if it were a judgment for such sum in the currency of Bermuda, on the basis of the rate of exchange prevailing at the date of such judgment, as is equivalent to the sum so payable.

(5) If at the date of an application for registration, a judgment to which this Act applies has been partly satisfied, such judgment shall not be registered in respect of the whole sum payable thereunder but only in respect of the balance remaining payable at that date.

JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1958

(6) If, on an application for registration, it appears to the Supreme Court that a judgment to which this Act applies is in respect of different matters and that some, but not all, of the provisions of such judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, such judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

(7) In addition to the sum payable under a judgment to which this Act applies, including any interest which by the law of the United Kingdom becomes due under the judgment up to the time of registration, such judgment shall be registered for the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of such judgment,

Setting aside registration

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

(a) shall be set aside if the Supreme Court is satisfied—

- (i) that the judgment is not a judgment to which this Act applies or was registered in contravention of this Act; or
- (ii) that the courts of the United Kingdom had no jurisdiction in the circumstances of the case; or
- (iii) that the judgment debtor, being the defendant in the proceedings giving rise to the registered judgment, did not (notwithstanding that process may have been duly served on him in accordance with the law of the United Kingdom) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear; or
- (iv) that the judgment was obtained by fraud; or
- (v) that the rights under the judgment are not vested in the person by whom the application for registration was made;

(b) may be set aside if the Supreme Court is satisfied that the matter in dispute in the proceedings giving rise to the registered judgment had, previously to the date of such judgment, been the subject of a final and conclusive judgment by a court having jurisdiction in the matter.

(2) For the purposes of this section, the superior courts of the United Kingdom shall, subject to sub-section (3), be deemed to have had jurisdiction—

- (a) in the case of a judgment given in an action in personam—
 - (i) if the judgment debtor, being a defendant in the proceedings giving rise to such judgment, submitted to the jurisdiction of that court by voluntarily appearing in such proceedings otherwise than for the purpose of protecting, or obtaining the release of, property seized, or threatened with seizure in such proceedings or of contesting the jurisdiction of the court; or
 - (ii) if the judgment debtor was a plaintiff in, or counterclaimed in, the proceedings giving rise to such judgment; or
 - (iii) if the judgment debtor, being a defendant in the proceedings giving rise to such judgment, had, before the commencement of such proceedings, agreed, in respect of the subject matter thereof, to submit to the jurisdiction of the court giving such judgment or of the courts of the United Kingdom; or
 - (iv) if the judgment debtor, being a defendant in the proceedings giving rise to such judgment, was at the time when such proceedings were instituted resident in, or being a body corporate had its principal place of business in, the United Kingdom; or
 - (v) if the judgment debtor, being a defendant in the proceedings giving rise to such judgment, had an office or place of business in the United Kingdom and such proceedings were in respect of a transaction effected through or at such office or place;
- (b) in the case of a judgment 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 giving rise to such judgment, situate in the United Kingdom;
- (c) in the case of a judgment given in an action other than any of the actions mentioned in paragraph (a) or

JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1958

paragraph (b), if the jurisdiction of the court giving such judgment is recognized by the law of Bermuda.

(3) Notwithstanding subsection (2), the courts of the United Kingdom shall not be deemed to have had jurisdiction—

- (a) if the subject of the proceedings was immovable property situated outside the United Kingdom; or
- (b) except in the cases mentioned in subparagraphs (i), (ii) and (iii) of paragraph (a) and in paragraph (c) of subsection (2), if the bringing of the proceedings giving rise to a registered judgment was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the United Kingdom; or
- (c) if the judgment debtor, being a defendant in the proceedings giving rise to a registered judgment, was a person who under the rules of public international law was entitled to immunity from the jurisdiction of the courts of the United Kingdom and did not submit to the jurisdiction thereof.

Powers of Supreme Court where appeal pending or judgment not enforceable by execution

5 (1) If on an application to set aside a registration, the applicant satisfies the Supreme Court either that an appeal against the judgment is pending, or that he is entitled and intends to appeal, against such judgment, the Supreme Court may, if it thinks fit, and upon such terms as it may think just, set aside such 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 such appeal disposed of by the competent tribunal.

(2) Where a registration is set aside under subsection (1), or solely for the reason that the judgment was not, at the date of the application for registration thereof, enforceable by execution, the setting aside of such registration shall not operate to prevent a further application to register such judgment when the appeal has been determined or when such judgment becomes enforceable by execution in the United Kingdom, as the case maybe.

(3) Where a registration is set aside solely for the reason that the judgment, notwithstanding that it had at the date of the application for registration been partly satisfied, was registered for the whole sum payable thereunder, the Supreme Court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

Exclusion of other proceedings in Bermuda

6 No proceedings for the recovery of a sum payable under a judgment to which this Act applies, other than proceedings provided for in this Act, shall be entertained by any court in Bermuda.

General effect of certain judgments

7 (1) Subject to this section, a judgment to which this Act 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 recognized in any court in Bermuda 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 any judgment—

(a) where the judgment 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 judgment; or
- (ii) that the judgment had been wholly or partly satisfied; or
- (iii) that at the date of the application the judgment could not be enforced by execution in the United Kingdom; or

(b) where the judgment has not been registered, and 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 set out in paragraph (a).

(3) Nothing in this section shall be taken to prevent any court in Bermuda recognizing any judgment as conclusive of any matter of law or fact decided therein if that judgment would have been so recognized before 15 December 1958.

Issue of certificates of judgments

8 Where a judgment 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 Supreme Court against any person and the judgment creditor is desirous of enforcing such judgment in the United Kingdom, the Supreme Court shall, on an application made by the judgment creditor and on payment of such fee as may be prescribed, issue to the judgment creditor a

JUDGMENTS (RECIPROCAL ENFORCEMENT) ACT 1958

certified copy of the judgment 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 judgment, as may be prescribed:

Provided that where execution of a judgment 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 judgment until the expiration of that period.

Extension to other countries

9 (1) Where the Governor is satisfied that reciprocal provisions have been made by the Legislature of any part of Her Majesty's dominions outside the United Kingdom for the enforcement within that part of Her Majesty's dominions of judgments obtained in the Supreme Court, the Governor may by Order declare that the application of this Act shall extend to judgments obtained in such courts in that part of Her Majesty's dominions as he may describe in the like manner as it extends to judgments obtained in a superior court in the United Kingdom, and in such case this Act shall apply accordingly.

(2) References in this section to Her Majesty's dominions outside the United Kingdom shall be construed as including references to any territories which are under Her Majesty's protection and any territories in respect of which trusteeship under the United Nations has been accepted by Her Majesty.

Rules; jurisdiction of judge

10 (1) Rules for the carrying into operation of this Act shall be made by the Supreme Court and shall provide—

- (a) for the giving of security for costs by persons applying for registration;
- (b) for prescribing the matters to be proved on an application for registration and for regulating the mode of proving such matters;
- (c) for the serving on the judgment debtor of notice of registration;
- (d) for the determination of the period within which an application to have registration set aside may be made and for the extension of such period;
- (e) for prescribing the method by which any question arising under this Act regarding the enforceability of such judgment by execution in the United Kingdom, or the interest payable under such judgment, is to be determined;
- (f) for prescribing the fees to be paid;

(g) for prescribing any matter which under this Act is required to be prescribed.

(2) Subject to any rule made under subsection (1), any of the powers conferred by this Act on the Supreme Court may be exercised by a judge.

(3) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to rules made under subsection (1).

Repeal

11 [omitted]

[Amended by
1977 : 35]